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PUBLIC ACTS
FOR THE
REGULATION OF RAILWAYS.
1830-1866.
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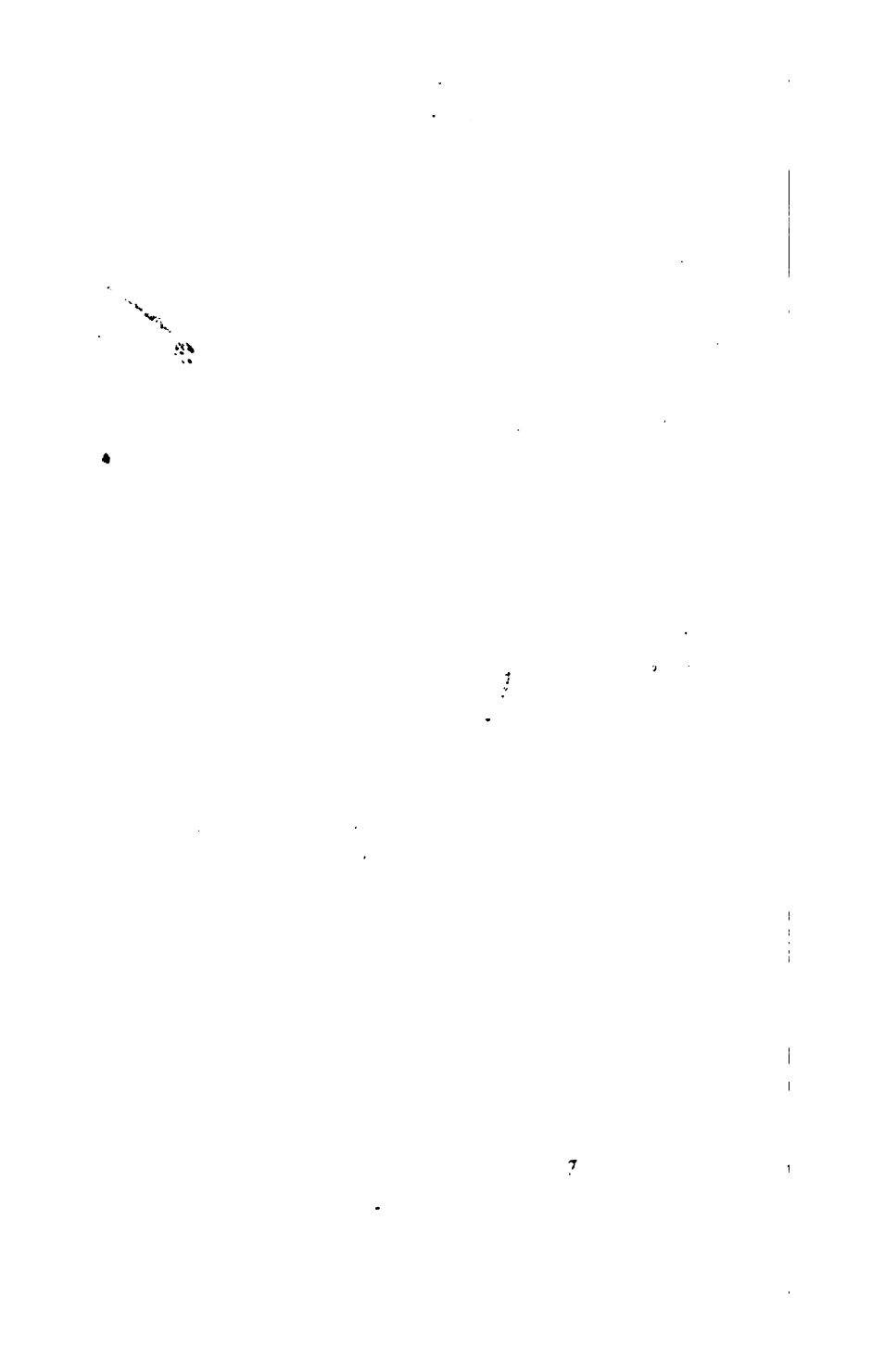
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GENERAL RAILWAY ACTS.

A COLLECTION
OF THE
PUBLIC GENERAL ACTS

FOR THE
Regulation of Railways:

INCLUDING
THE COMPANIES, LANDS, AND RAILWAYS CLAUSES
CONSOLIDATION ACTS, COMPLETE.

1830—1866.

WITH A COPIOUS INDEX.

EDITED BY JAMES BIGG, ESQ.

TWELFTH EDITION.

AS AMENDED TO CLOSE OF SESS. 1866.



Westminster :

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1866.

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PREFACE

THIS collection of General Railway Acts was first published in the year 1845, and during the twenty-one years that have since elapsed it has passed through several editions, each containing the Enactments then in force relating to railways. The volume now published contains the General Statutes for the Regulation of Railways in England and Ireland in force at the close of 29 & 30 Vict. Sess. 1866, and includes the Companies, Lands, and Railways Clauses Consolidation Acts, with all the Amending Enactments complete.

The Legislation of Sess. 1866, has introduced Two Important features with reference to the Railway System, viz. 1. The Power to Railway Companies in Ireland to obtain temporary advances from Government, and 2. The Provision for the Registration of the Securities issued by the Railway Companies in the United Kingdom. The first-mentioned Power applies only to Railway Companies in *Ireland*, but there are Companies in Great Britain who doubtless would be glad to avail themselves of such advances, and they will be ready to urge that "Justice to Great Britain" requires that the precedent now established, as to Companies in Ireland, should be extended to Companies in Great Britain. It will be advisable, however, that the nature of the security required by Government should be carefully considered, for it is probable that but few Companies would be willing to place themselves so completely in the power of the Government of the day as will be the case with the Companies in Ireland, who avail themselves of the powers recently granted. The Act here

referred to (29 & 30 Vict. c. 95), as well as the "Railway Companies Securities Act," (29 & 30 Vict. c. 108), require the careful consideration of the Directors and Officers of Railway Companies.

In this Edition several Statutes have been omitted in consequence of their Repeal, or Expiration by effluxion of time; with respect to the "Abandonment of Railways Act," 13 & 14 Vict. c. 83, the doubts expressed by the late Statute Law Commission as to this Act being now in force, may be considered as negatived, and the Act is retained in the Volume as part of the Existing Law.

Several Statutes have been partially Repealed or Amended—the "Register of Amendments" at page x. contains the particulars thereof; and in the body of the volume such Repealed and Amended Provisions are printed in *Italic Type*, in order that they may be clearly distinguished from Enactments which are still part of the Existing Law.

This Edition has been Revised throughout, and contains several Statutes and parts of Statutes which have not appeared in any previous Volume. The object of the Editor has been to render the work a Complete Consolidation of the General Enactments relating to Railways in England and Ireland; and in order to facilitate ready reference to their Provisions, the Index has been recompiled and greatly extended.

With reference to the Question of the practicability of Expurgating the Statute Book of all Repealed and Expired Enactments, and of permanently continuing that Expurgation at the close of each subsequent session, it may be mentioned that this Volume was published in 1845 at the suggestion of the late Mr. I. K. Brunel. The first Edition was printed from moveable type, but a new Edition being required within a few weeks after its publication, it was deemed desirable, in order to avoid the repetition of the

labour of careful examination necessary in the case of moveable type, that the volume should be stereotyped. From time to time during the twenty-one years that have since elapsed, Repealed and Expired Statutes have been omitted, and New Statutes added, so that each subsequent Edition has contained the Existing Statute Law relating to Railways expurgated of all Repealed and Expired Enactments. The plan which for Twenty-one Years has been carried out successfully in this Volume, could without any difficulty be applied to the whole of the Statute Book, and the Editor of this Volume ventures to hope that his life may be spared to see the completion of an Expurgated Edition of Statutes under the Authority of Parliament. Its practicability is undisputed. For upwards of Thirty Years the STATUTE BOOK, its EVILS, and THEIR REMEDY have been the theme of discussion, upwards of *Three Hundred Thousand Pounds* have been spent nominally in efforts to remove these evils and to devise a remedy, still the evils continue, and all remedies hitherto attempted, have failed. The subject is likely again to come under the consideration of Parliament during the ensuing Session, and therefore a short statement of the Expense of an EXPURGATED EDITION OF PUBLIC STATUTES is here given that it may be compared with the outlay required by other plans that may be suggested.

The Statutes passed by the Parliaments of the United Kingdom are 7885 in number, and contain 70,462 foolscap folio pages, of which 43,462 pages have ceased to be in force. The Existing Enactments (expurgated of all Repealed and Expired matter) could be printed uniform with this volume, in 27,000 pages; of which not exceeding 20,000 pages are permanent Public Laws, the remaining 7000 pages consisting either of Annual Acts not yet expired, or of Acts of a local character similar in their nature to the series of Local Acts, and not constituting any part of the Permanent

Public Law of the United Kingdom; and for the sum of £10,681 5s., the Editor of this Volume would contract to edit, print, bind, and deliver to the Stationery Office, 675 copies of a complete Edition of the Permanent Public Laws of the United Kingdom for the use of the Government Offices and the Legislature. No payment to be made except in respect of Volumes or Parts completed and 675 copies delivered, so that failure in the performance of the work would involve the failure of remuneration. It would be proposed that the work should be published at the rate of 2016 pages annually, which, at the rate of 1s. 6d. per 96 pages, would involve an annual expense to the public of only £1063 2s. 6d. per annum.

The great objection to the acceptance of this proposal has been that it is without precedent for an Expurgated Edition of the Statutes to be entrusted to the Editorship of a gentleman who is not a professional Lawyer. It cannot, however, be denied that for above 80 years the Reformation of the Statute Book has been confided to Professional Lawyers, at a cost to the public of £300,000—and yet the money is gone, *absolutely lost*, without any improvement having been effected. The facts are undisputed, and may weigh in influencing the Government and the Legislature to confide the work of Reformation to a gentleman who is willing to undertake it upon terms which the professional gentlemen hitherto employed would certainly decline, viz. That the Payment of Remuneration shall depend upon the performance of the duties in respect of which the payments are made. Though the Editor may have been discouraged by the rebuffs he has hitherto met with; until some better plan is suggested, he will continue to press it on the attention of those concerned. The good old maxim, that “Perseverance overcometh all Difficulties,” has not yet been realized in this case, but it may even yet be fulfilled.

JAMES BIGG.

53, Parliament Street.
October, 1866.

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PUBLIC GENERAL ACTS

RELATING TO

RAILWAYS.

1 WILLIAM IV., cap. 68.

An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors, and other Common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof. [23d July, 1830.]

WHEREAS by reason of the frequent practice of bankers [Amended by 28 & 29 Vict.c. 94.] and others of sending by the public mails, stage coaches, waggons, vans, and other public conveyances by land for hire, parcels and packages containing money, bills, notes, jewellery, and other articles of great value in small compass, much valuable property is rendered liable to depredation, and the responsibility of mail contractors, stage coach proprietors, and common carriers for hire is greatly increased: and whereas through the frequent omission by persons sending such parcels and packages to notify the value and nature of the contents thereof, so as to enable such mail contractors, stage coach proprietors, and other common carriers, by due diligence, to protect themselves against losses arising from their legal responsibility, and the difficulty of fixing parties with knowledge of notices published by such mail contractors, stage coach proprietors, and other common carriers, with the intent to limit such responsibility, they have become exposed to great and unavoidable risks, and have thereby sustained heavy losses.

1. Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act no mail contractor, stage coach proprietor, or other common carrier by land for hire shall be liable for the loss of or

Mail coach proprietors, and carriers not to be liable for

loss of certain goods above the value of 10*l.*, unless delivered as such, and increased charge accepted.

injury to any article or articles or property of the descriptions following; (that is to say,) gold or silver coin of this realm or of any foreign state, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, bills, notes of the governor and company of the banks of England, Scotland, and Ireland respectively, or of any other bank in Great Britain or Ireland, orders, notes, or securities for payment of money, English or foreign, stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials, furs, or lace, or any of them, contained in any parcel or package which shall have been delivered, either to be carried for hire or to accompany the person of any passenger in any mail or stage coach or other public conveyance, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of ten pounds, unless at the time of the delivery thereof at the office, warehouse, or receiving house of such mail contractor, stage coach proprietor, or other common carrier, or to his, her, or their book-keeper, coachman, or other servant, for the purpose of being carried or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person or persons sending or delivering the same, and such increased charge as herein-after mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package.

When any parcel shall be so delivered an increased rate of charge may be demanded. Notice of the same to be affixed in offices or warehouses.

2. And be it further enacted, that when any parcel or package containing any of the articles above specified shall be so delivered, and its value and contents declared as aforesaid, and such value shall exceed the sum of ten pounds, it shall be lawful for such mail contractors, stage coach proprietors, and other common carriers to demand and receive an increased rate of charge, to be notified by some notice affixed in legible character in some public and conspicuous part of the office, warehouse, or other receiving house where such parcels or packages are received by them for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons sending or delivering parcels or packages containing such valuable articles as aforesaid at such office shall be bound by such

notice, without further proof of the same having come to their knowledge.

3. Provided always, and be it further enacted, that Carriers when the value shall have been so declared, and the increased rate of charge paid, or an engagement to pay the receipts same shall have been accepted as herein-before mentioned, the person receiving such increased rate of charge or accepting such agreement shall, if thereto required, sign a receipt for the package or parcel, acknowledging the same to have been insured, which receipt shall not be liable to any stamp duty; and if such receipt shall not be given when required, or such notice as aforesaid shall not have been affixed, the mail contractor, stage coach proprietor, or other common carrier as aforesaid shall not have or be entitled to any benefit or advantage under this act, but shall be liable and responsible as at the common law, and be liable to refund the increased rate of charge.

In case of neglect not to be entitled to benefit of this act.

4. Provided always, and be it enacted, that from and after the first day of September now next ensuing no public notice or declaration heretofore made or hereafter to be made shall be deemed or construed to limit or in anywise affect the liability at common law of any such mail contractors, stage coach proprietors, or other public common carriers as aforesaid for or in respect of any articles or goods to be carried and conveyed by them; but that all and every such mail contractors, stage coach proprietors, and other common carriers as aforesaid shall from and after the said first day of September be liable, as at the common law, to answer for the loss of any injury to any articles and goods in respect whereof they may not be entitled to the benefit of this act, any public notice or declaration by them made and given contrary thereto, or in anywise limiting such liability, notwithstanding.

5. And be it further enacted, that for the purposes of this act every office, warehouse, or receiving house which shall be used or appointed by any mail contractor or stage coach proprietor, or other such common carrier as aforesaid for the receiving of parcels to be conveyed as aforesaid, shall be deemed and taken to be the receiving house, warehouse, or office of such mail contractor, stage coach proprietor, or other common carrier; and that any one or more of such mail contractors, stage coach proprietors, or common carrier shall be liable to be sued by his, her, or their name or names only; and that no action or suit commenced to recover damages for loss or injury to any parcel, package, or person shall abate for the want

Every office used to be deemed a receiving-house;
and anyone and anyone
coach proprietor or carrier
shall be liable to be sued.

of joining any co-proprietor or co-partner in such mail, stage coach, or other public conveyance by land for hire as aforesaid.

Act not to
affect con-
tracts.

6. Provided always, and be it further enacted, that nothing in this act contained shall extend or be construed to annul or in anywise affect any special contract between such mail contractor, stage coach proprietor, or common carrier, and any other parties, for the conveyance of goods and merchandises.

Parties en-
titled to
damages
may also
recover
extra
charges.

7. Provided also, and be it further enacted, that where any parcel or package shall have been delivered at any such office, and the value and contents declared as aforesaid, and the increased rate of charges been paid, and such parcels or packages shall have been lost or damaged, the party entitled to recover damages in respect of such loss or damage shall also be entitled to recover back such increased charges so paid as aforesaid, in addition to the value of such parcel or package.

Act not to
protect
felonious
acts.

8. Provided also, and be it further enacted, that nothing in this act shall be deemed to protect any mail contractor, stage coach proprietor, or other common carrier for hire from liability to answer for loss or injury to any goods or articles whatsoever arising from the felonious acts of any coachman, guard, book-keeper, porter, or other servant in his or their employ, nor to protect any such coachman, guard, book-keeper, or other servant from liability for any loss or injury occasioned by his or their own personal neglect or misconduct.

Coach pro-
prietors
and carriers
liable only
to such
damages as
are proved.

9. Provided also, and be it further enacted, that such mail contractors, stage coach proprietors, or other common carriers for hire shall not be concluded as to the value of any such parcel or package by the value so declared as aforesaid, but that he or they shall in all cases be entitled to require, from the party suing in respect of any loss or injury, proof of the actual value of the contents by the ordinary legal evidence, and that the mail contractors, stage coach proprietors, or other common carriers as aforesaid shall be liable to such damages only as shall be so proved as aforesaid, not exceeding the declared value, together with the increased charges as before mentioned.

Money may
be paid into
court in all
actions for
loss of
goods.

10. And be it further enacted, that in all actions to be brought against any such mail contractor, stage coach proprietor, or other common carrier as aforesaid, for the loss of or injury to any goods delivered to be carried, whether the value of such goods shall have been declared or not, it shall be lawful for the defendant or defendants to pay money into court in the same manner and with

the same effect as money may be paid into court in any other action.

11. And be it further enacted, that this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded. Public act.

1 VICT. CAP. 83.

An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament. [17th July, 1837.]

WHEREAS the Houses of Parliament are in the habit of requiring that, previous to the introduction of any bill into Parliament for making certain bridges, turnpike roads, cuts, canals, reservoirs, aqueducts, waterworks, navigations, tunnels, archways, railways, piers, ports, harbours, ferries, docks and other works, to be made under the authority of Parliament, certain maps or plans and sections, and books and writings, or extracts or copies of or from certain maps, plans or sections, books and writings, shall be deposited in the office of the clerk of the peace for every county, riding or division in England or Ireland, or in the office of the sheriff clerk of every county in Scotland, in which such work is proposed to be made, and also with the parish clerk in every parish in England, the schoolmaster of every parish of Scotland, or in royal burghs with the town clerk, and the postmaster of the post town in or nearest to every parish in Ireland, in which such work is intended to be made, and with other persons; and whereas it is expedient that such maps, plans, sections, books, writings, and copies or extracts of and from the same, should be received by the said clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks, postmasters and other persons, and should remain in their custody for the purposes herein-after mentioned—

1. Be it therefore enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that whenever either of the houses of Parliament shall, by its standing orders, already made or hereafter to be made, require that any such maps, plans, sections, books or writings, or extracts or copies of the same, or any of them, shall be deposited as aforesaid, Clerks of the peace, &c. to receive the documents herein mentioned, and retain them for the purposes

poses directed by the standing orders of the houses of parliament.

Clerks of the peace, &c. to permit such documents to be inspected or copied by persons interested.

Clerks of the peace, &c. for every omission to comply with the provisions of this act, liable to the penalty of 5*l.*, to be recovered in a summary way.

such maps, plans, sections, books, writings, copies and extracts shall be received by and shall remain with the clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks, postmasters and other persons with whom the same shall be directed by such standing orders to be deposited, and they are hereby respectively directed to receive and to retain the custody of all such documents and writings so directed to be deposited with them respectively, in the manner and for the purposes and under the rules and regulations concerning the same respectively directed by such standing orders, and shall make such memorials and indorsements on and give such acknowledgments and receipts in respect of the same respectively as shall be thereby directed.

2. And be it further enacted, that all persons interested shall have liberty to, and the said clerks of the peace, sheriff clerks, parish clerks, schoolmasters, town clerks and postmasters, and every of them, are and is hereby required, at all reasonable hours of the day, to permit all persons interested to inspect, during a reasonable time, and make extracts from or copies of the said maps, plans, sections, books, writings, extracts and copies of or from the same, so deposited with them respectively, on payment by each person to the clerk of the peace, sheriff clerk, clerk of the parish, schoolmaster, town clerk or postmaster having the custody of any such map, plan, section, book, writing, extract or copy, one shilling for every such inspection, and the further sum of one shilling for every hour during which such inspection shall continue after the first hour, and after the rate of sixpence for every one hundred words copied therefrom.

3. And be it further enacted, that in case any clerk of the peace, sheriff clerk, parish clerk, schoolmaster, town clerk, postmaster or other person, shall in any matter or thing refuse or neglect to comply with any of the provisions hereinbefore contained, every clerk of the peace, sheriff clerk, parish clerk, schoolmaster, town clerk, postmaster or other person, shall for every such offence forfeit and pay any sum not exceeding the sum of five pounds; and every such penalty shall, upon proof of the offence before any justice of the peace for the county within which such offence shall be committed, or by the confession of the party offending, or by the oath of any credible witness, be levied and recovered, together with the costs of the proceedings for the recovery thereof, by distress and sale of the goods and effects of the party offending, by warrant under the hand of such justice, which warrant such justice is hereby empowered to grant, and shall be paid to the

person or persons making such complaint ; and it shall be lawful for any such justice of the peace to whom any complaint shall be made of any offence committed against this act, to summon the party complained of before him, and on such summons to hear and determine the matter of such complaint in a summary way, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty of forfeiture incurred, and to proceed to recover the same, although no information in writing or in print shall have been exhibited or taken by or before such justice ; and all such proceedings by summons without information shall be as good, valid and effectual, to all intents and purposes, as if an information in writing had been exhibited.

1 & 2 VICT. CAP. 80.

An Act for the Payment of Constables for keeping the Peace near Public Works.

[10th August, 1838.]

WHEREAS great mischiefs have arisen by the outrageous and unlawful behaviour of labourers and others employed on railroads, canals, and other public works, by reason whereof the appointment of special constables is often necessary for keeping the peace, and for the protection of the inhabitants and security of the property in the neighbourhood of such public works, whereby great expenses have been cast upon the public rates of counties and other districts chargeable with such expenses :—

1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that after the passing of this act, whenever any special constables shall be appointed under the authority of an act passed in the second year of the reign of his late majesty, intituled "An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace," or under the authority of an act passed in the sixth year of the reign of his late Majesty, intituled "An Act for enlarging the Powers of magistrates in the Appointment of Special Constables," and it shall be made to appear to any two or more justices of the peace of any county, riding, or division having a separate commission of the peace, or of any liberty, franchise, city, town, or borough, in England or Wales, on the oath of three or more credi-

Preamble.

Whenever the appointment of special constables has been occasioned by the behaviour of persons employed upon railway works, the expenses thereof shall be paid by the companies carrying on such works.

ble witnesses, that the appointment of such special constables has been occasioned by the behaviour, or by reasonable apprehension of the behaviour, of the persons employed upon any railway, canal, or other public work made or carried on under the authority of parliament within the district or division for which such justices usually act, it shall be lawful for such justices as aforesaid, at any time not exceeding one calendar month next after such appointment, to make orders from time to time upon the treasurer or other officer who shall have the control or custody of the funds of any company making or carrying on such railroad, canal, or other public work, for the payment of such reasonable allowances for their trouble, loss of time, and expenses to such special constables who shall have so served or be then serving as to the said justices shall seem proper; and a copy of every such order shall be sent by the justices to one of her Majesty's principal secretaries of state, and such order, if allowed by the secretary of state, shall be binding on such company, and on every such treasurer and officer thereof: provided always, that nothing herein contained shall empower any such justices to order any allowance for any such special constables at the rate of more than five shillings daily to be paid to each special constable employed for the purposes aforesaid.

Secretary
of state
may reduce
excessive
orders.

2. And be it enacted, that if it shall appear to the secretary of state that there was no need for the appointment of such special constables, or that a greater number of special constables was appointed than was needed by reason of the behaviour, or reasonable apprehension of the behaviour, of the persons employed on such railroad, canal, or other public work as aforesaid, the secretary of state shall have power to disallow any such order, or to reduce the amount ordered to be paid by any such order, in such manner as to him shall seem just according to the circumstances of each case; and in such case the order shall be of no force, or shall be of force for such reduced amount only, as the case may be; and the whole of such expenses in case the whole shall be disallowed, or so much thereof as shall exceed such reduced amount if a part shall be allowed, shall be defrayed out of the public rates of such county, riding, or division, liberty, franchise, city, town, or borough, as if this act had not been made.

Amount
ordered
and allow-

3. And be it enacted, that in all cases where such treasurer or other officer as aforesaid shall refuse or neglect, during three weeks next after demand thereof, to

pay such sum of money as shall have been ordered by such justices, and allowed by the secretary of state as aforesaid, it shall be lawful for such justices to cause the same to be levied by distress upon the goods and chattels belonging to such company.

4. And be it enacted, that this act may be amended or repealed by any act to be passed in this session of Parliament.

ed may be recovered by distress.
Act may be amended or repealed.

1 & 2 VICT. CAP. 98.

An Act to provide for the Conveyance of the Mails by Railways. [14th August, 1838.]

WHEREAS it is expedient that provision should be made by law for the conveyance of the mails by railways at a reasonable rate of charge to the public:

1. Be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in all cases of railways already made or in progress, or to be hereafter made within the United Kingdom, by which passengers or goods shall be conveyed in or upon carriages drawn or impelled by the power of steam, or by any locomotive or stationary engines, or animal or other power whatever, it shall be lawful for the Postmaster-General, by notice in writing under his hand delivered to the company of proprietors of any such railway, to require that the mails or post letter bags shall, from and after the day to be named in any such notice, (being not less than twenty-eight days from the delivery thereof,) be conveyed and forwarded by such company on their railway, either by the ordinary trains of carriages, or by special trains, as need may be, at such hours or times in the day or night as the Postmaster-General shall direct, together with the guards appointed and employed by the Postmaster-General in charge thereof, and any other officers of the post-office; and thereupon the said company shall, from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on such railways for the conveyance of such mails and post letter bags to the satisfaction of the Postmaster-General, and receive, take up, carry, and convey by such ordinary or special trains of carriages or otherwise, as need may be, all such mails or post letter bags as shall for that purpose be tendered to them, or any of their officers, servants, or agents, by any officer of the post-office, and also receive, take up, carry,

Conveyance of Mails.

Postmaster-General may require company to convey the mails on their railway.
See 7 & 8 Vict. c. 85, s. 11.

By the Post Office Act, 10 & 11 Vict. c. 85, s. 16, power is given to send mails without a guard.

- Conveyance of Mails.* and convey, in and upon the carriages carrying such mails or post letter bags, the guards in charge thereof, and any other officers of the post-office, and shall receive, take up, deliver, and leave such mails or post letter bags, guards, and officers at such places in the line of such railway, on such days, at such hours or times in the day or night, and subject to all such reasonable regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, and times of arrival, as the Postmaster-General shall in that behalf from time to time order or direct :
Amended by the 7 & 8 Vict. c. 85, s. 11. *Provided always, that the rate of speed to be required shall in no case exceed the maximum rate of speed prescribed by the directors of such railway or railways for the conveyance of passengers by their first class trains ; but that no alteration in the rate of speed of any train by which the mails shall be conveyed shall be made until six calendar months previous notice shall be given to the Postmaster-General of any such intended alteration.*
- Carriages to be exclusively appropriated.* 2. And be it enacted, That it shall be lawful for the Postmaster-General (if he shall see fit) to require that the whole of the inside of any carriage used on any railway for the conveyance of mails or post letter bags shall be exclusively appropriated for the purpose of carrying the mails.
- Separate carriages for sorting letters, to be provided by the company.* 3. And be it enacted, That the company of proprietors of any such railway shall, on being required so to do by the Postmaster-General, provide and furnish (in addition to the carriages aforesaid) a separate carriage or separate carriages, fitted up as the Postmaster-General, or such person as he shall nominate in that behalf, shall direct, for the purpose of sorting letters therein, and shall forward the same carriage or carriages by their railway, at such hours or times, and subject to all such reasonable regulations as aforesaid, as the Postmaster-General shall in that behalf order or direct ; and such company of proprietors shall receive, take up, carry, and convey in any such last-mentioned carriage or carriages all such post letter bags and officers of the post-office as the Postmaster-General shall reasonably require, and shall deliver and leave any post letter bags and officers of the post-office at such places on the line of the railway as the Postmaster-General shall in that behalf from time to time reasonably order and direct.
- Mail coaches and carts to be conveyed on railway.* 4. And be it enacted, That in case the Postmaster-General shall at any time be desirous of sending by any such railway any of her Majesty's mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the post-office therein, instead of sending the said mails or

post letter bags, guards, and officers of the post-office by carriages to be provided by such railway company as aforesaid, then and in any such case such railway company shall, at the request of the Postmaster-General, signified by such notice as aforesaid, cause such mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the post-office therein, to be conveyed by the usual or proper trucks or frames on their said railway, subject to such regulations and restrictions of the Postmaster-General as hereinbefore mentioned.

*Conveyance
of Mails.*

5. And be it enacted, That for the greater security of the mails or post letter bags so to be carried or conveyed by railways, the company of proprietors of such respective railways along which such mails or post letter bags, mail coaches, or carts and carriages for sorting letters, shall be so required by the Postmaster-General to be conveyed, and their respective officers, servants, and agents, shall obey, observe, and perform all such reasonable regulations respecting the conveyance, delivering, and leaving of such mails and post letter bags, guards and officers of the post-office, mail coaches, or carts and carriages, on any such railways, or on the line thereof, as the Postmaster-General, or such officer of the post-office as he shall nominate in that behalf, shall in his discretion from time to time give or make: Provided always, that it shall not be lawful for any officer or servant of the post-office to interfere with or give orders to the engineer or other person having the charge of any engine upon any railway along which mails or post letter bags shall be conveyed; but if any cause of complaint shall arise, the same shall be stated to the conductor or other officer of the railway company having the charge of the train, or to the chief officer at any station upon the railway; and in case of any default or neglect on the part of any officers or servants of the railway company to comply with any of the regulations of the Postmaster-General or other officer of the post-office so to be nominated as aforesaid, the railway company shall be wholly responsible for the same.

*Regulations
of Postmas-
ter-General,
to be ob-
served by
company.*

*Officer of
post-office
not to in-
terfere with
person hav-
ing charge
of engine.*

6. And be it enacted, That every company of proprietors of any railway along which such mails or post letter bags, mail coaches, carts, or carriages shall be so required by the Postmaster-General to be conveyed, shall be entitled to such reasonable remuneration to be paid by the Postmaster-General to any such company of proprietors for the conveyance of such mails, post letter bags, mail guards, and other officers of the post-office, mail coaches, carts, and carriages, in manner required by such Postmaster-General, or by such officer of the post-office as he shall in

*Remunera-
tion to com-
pany for
conveyance
of mails.*

Conveyance of Mails. that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the Postmaster-General and such company of proprietors, or in case of difference of opinion between them, then as shall be determined by arbitration as hereinafter provided, but so that the services which may be required by the Postmaster-General, or by such officer of the post-office as he in that behalf shall nominate as aforesaid, to be performed by any such company of proprietors, be not suspended, postponed, or deferred by reason of such remuneration not having been then fixed or agreed on between the said Postmaster-General and such company of proprietors, or by reason of the award on any reference to arbitration to determine the remuneration not having been then made.

Agreements as to remuneration, &c., to be altered in case of addition to, or discontinuance of, any part of services of company. 7. And be it enacted, That notwithstanding any agreement entered into between the Postmaster-General and any such company, or any award to be made on any such reference as aforesaid, fixing the amount of remuneration to be paid to such company for any services to be rendered by them as aforesaid, it shall be lawful and competent to and for the Postmaster-General, by notice in writing, to require, from and after the day to be named in any such notice, not being less than twenty-eight days from the delivery thereof, any addition to be made to the services in respect of which such agreement shall be entered into or award made; and in any such case, and also in case of a discontinuance of any part of such services as hereinafter provided, a fresh agreement shall be entered into between the Postmaster-General and such company, regulating the future amount of remuneration to be paid by the Postmaster-General to such company for such increased or diminished services, as the case may be; or if the parties cannot agree on such amount, the same shall be referred to arbitration in like manner as hereinbefore is mentioned and hereinafter provided as to any original agreement; and such arbitrators shall have power to award any compensation they may consider reasonable to be paid to any railway company for any loss that may have been occasioned to them by the discontinuance or alteration of the services previously agreed to be performed by them by any train or carriage specially required by the Postmaster-General to be forwarded for the conveyance of the mails, but so that nevertheless such increased or diminished services shall not be suspended, postponed, or deferred by reason of the amount of such increased or diminished remuneration not having been then fixed or agreed on between the Postmaster-General and such company of proprietors, or by reason of the award on any reference to

arbitration to determine the amount of such increased or diminished remuneration not having been then made.

8. And be it enacted, That it shall be lawful for the Postmaster-General and he is hereby authorized, at any time during the continuance of the services of any company of proprietors as aforesaid, to give to such company, by writing under his hand, six calendar months' previous notice that such services or any part thereof shall cease and determine; and thereupon, at the expiration of such six calendar months' notice, the said services, or such part thereof as aforesaid, and the remuneration for the same, shall cease and determine.

*Conveyance
of Mails.*

Postmaster
General
may termi-
nate service
of company
on notice.

9. And be it enacted, That it shall be lawful for the Postmaster-General at any time during the continuance of the services of any company of proprietors as aforesaid, by notice in writing under his hand, absolutely to determine and put an end to the same or any part thereof, without giving any previous notice, or on giving any notice less than six calendar months in respect thereof, and thereupon the said services shall cease and determine accordingly: Provided nevertheless, that in case the Postmaster-General shall, without giving six calendar months' notice as aforesaid, at any time determine the services to be required by the Postmaster-General of any company of proprietors, or any part of such services, without any cause whatever, or for any cause other than the default by such company of proprietors in the performance of any of the services to be required of them by the Postmaster-General, or the breach by such company of proprietors of any of their engagements with the Postmaster-General, then and in any such case the Postmaster-General shall make to such company a full and fair compensation for all loss thereby occasioned, the amount whereof in case the parties differ about the same shall be ascertained by arbitration as hereinafter mentioned.

10. And be it enacted, That on all carriages to be provided for the service of the post-office on any such railway, there shall on the outside be painted the royal arms, in lieu of the name of the owner and of the number of the carriage, and of all other requisites, if any, prescribed by law in respect of carriages passing on any such railway; but the want of such royal arms on any carriage belonging to or used by the post-office shall not form an objection to such carriage running on any railway, anything to the contrary notwithstanding.

Royal arms
to be painted
on carriages pro-
vided for the service
of the post-office.

11. And be it enacted, That it shall not be competent for the company of proprietors of any railway to make any bye-laws, orders, rules, or regulations which shall militate against or be contrary or re-

Bye-laws of
company
not to be re-
pugnant to

Conveyance of Mails. repugnant to any of the enactments herein contained; and that if any company of proprietors shall make or shall have made any such bye-laws, orders, rules, or regulations, either prior or subsequently to the Postmaster-General signifying to the said company his intention that the mails or post letter bags, mail coaches, carts, or carriages shall be conveyed by such railway, all such bye laws, orders, rules, and regulations, so far as they shall militate against or be contrary or repugnant to any of the enactments herein contained, shall be and be deemed absolutely void and of no effect, in like manner as if such bye-laws, orders, rules, or regulations, had never been made or passed, anything to the contrary in anywise notwithstanding.

Penalty for refusing or neglecting to convey mails,

12. And be it enacted, That if the company of proprietors of any railway, or any of their respective officers, servants, or agents, shall refuse or neglect to carry or convey any mails or post letter bags, when tendered to them for such purpose by the Postmaster-General or any officer of the post-office, or shall refuse to carry on their railway any mail coaches, carts, or carriages as hereinbefore provided, when so required by the Postmaster-General, or shall refuse or neglect to receive, take up, deliver, and leave any such mails or post letter bags, mail guards, or other officers of the post-office, mail coaches, carts, or carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as the Postmaster-General shall from time to time reasonably direct or appoint, as hereinbefore provided, or shall not obey, observe, and perform all such regulations respecting the conveyance of the mails and post letter bags, mail coaches, carts, and carriages on any such railways as the Postmaster-General or such officer of the post-office as he shall nominate in that behalf, shall make for the purposes aforesaid, then and in any such case the company of proprietors who, or whose officer, servant, or agent, shall so offend in the premises, shall for every such offence forfeit and pay a sum not exceeding twenty pounds; provided nevertheless, that the payment of or liability to such penalty shall not in any manner lessen or affect the liability of any such company under any bond which may have been given by them under the provisions hereinafter contained.

or to observe regulations of Postmaster General.

Company to give security by bond when required

13. And be it enacted, That it shall be lawful for the Postmaster-General, if he shall so think fit, to require the company of proprietors of any railway already made or in progress, or to be hereafter made within the United Kingdom, to give security by bond to her Majesty, her heirs

and successors, conditioned to be void if such company shall from time to time carry or convey, or cause to be carried or conveyed, all such mails or post letter bags, mail guards, and other officers of the post-office, mail coaches, carts, and carriages in manner hereinbefore mentioned, when thereunto required by the Postmaster-General, or any officer of the post-office duly authorized for that purpose, and shall receive, take up, deliver, and leave all such mails or post letter bags, guards and officers, mail coaches, carts, and carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as hereinbefore mentioned, and shall obey, observe, and perform all such regulations respecting the same as the Postmaster-General shall reasonably make, and shall well and truly do and perform, and cause to be done and performed, all such other acts, matters, and things, as by this Act are required or directed to be done or performed by or on the part or behalf of such company, their officers, servants, and agents; and every such bond shall be taken in such sum and in such form as the Postmaster-General shall think proper; and every such security shall be renewed from time to time whenever and so often as such bond shall be forfeited, and also whenever and so often as the Postmaster-General shall in his discretion require the same to be renewed; and if any company of proprietors of any such railway as aforesaid shall, when so required as aforesaid, refuse or neglect, for the space of one calendar month next after the delivery of any notice for such purpose to them given by or from the Postmaster-General, to execute to her Majesty, her heirs and successors, such bond to the effect and in manner aforesaid, or shall at any time refuse or neglect to renew such bond whenever and so often as the same shall, by or in pursuance of this Act, be required to be renewed, such company of proprietors shall forfeit one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, after the expiration of the said one calendar month.

*Conveyance
of Mails.*

*Such secu-
rity to be
renewed
from time
to time.*

14. Provided always, and be it enacted, That in all cases in which any railway or part of a railway may, previous to the passing of this Act, have been demised or let by the company of proprietors thereof, the body corporate or company, or other persons to whom the same shall have been so demised or let, their successors, executors, administrators, or assigns, shall during the continuance of such lease be liable to all the provisions of this Act for or in respect of such railway or part of a railway, in lieu of

*Lessees not
being a
body cor-
porate or
company
not to be re-
quired to
give secu-
rity above
1000*l*.*

Conveyance such company of proprietors, but so that such lessees, (not *of Mails.* being a body corporate or company,) their executors, administrators, or assigns, shall not be required in respect of any such railway or part of a railway to give security under the foregoing enactment to any amount in any one bond exceeding the sum of one thousand pounds, and shall not in any one year be liable in damages to be recovered upon any bonds which they may have given to any amount exceeding the sum of one thousand pounds and costs of suit.

Service of notices.

15. And be it enacted, That all notices under the provisions of this Act by or on behalf of the Postmaster-General to any company of proprietors of any railway as aforesaid, shall be considered as duly served on any company of proprietors in case the same shall be given or delivered to any one or more of the directors of such company, or to the secretary or clerk of such company, or be left at any station belonging to such company.

Differences between Postmaster-General and company to be settled by arbitration.

16. And be it enacted, That in all cases in which the Postmaster-General and any company of proprietors of any railway shall not be able to agree on the amount of remuneration or compensation to be paid by the Postmaster-General to such company of proprietors for any services performed or to be performed by them as hereinbefore mentioned, the same shall be referred to the award of two persons, one to be named by the Postmaster-General, and the other by such company; and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first-named persons previously to their entering upon the inquiry; and the said award or umpirage, as the case may be, shall be binding and conclusive on the said parties, and their respective successors and assigns.

After contracts have existed three years, company may refer them to arbitrators to decide as to their continuance.

17. And be it enacted, That after any contract entered into or award made under the authority of this Act shall have continued in operation for a period of three years, it shall be competent for any railway company who may consider themselves aggrieved by the terms of remuneration fixed by such contract or award, by notice under their common seal, to require that it shall be referred to arbitrators to determine whether any and what alteration ought to be made therein; and thereupon such arbitrators or umpire to be appointed as hereinbefore mentioned shall proceed to inquire into the circumstances, and make their award therein, as in the case of an original agreement: Provided always, that the services performed by such railway company for the post-office shall in nowise be interrupted or impeded thereby

18. And be it enacted, That in all references to be made under the authority of this act, the Postmaster-General, or the railway company, as the case may be, shall nominate his or their arbitrator within fourteen days after notice from the other party, or in default it shall be lawful for the arbitrator appointed by the party giving notice to name the other arbitrator; and such arbitrators shall proceed forthwith in the reference, and make their award therein within twenty-eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire; and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty-eight days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first-named arbitrators, who shall in like manner proceed and make his award within twenty-eight days, or in default be superseded, and so "toties quoties."

*Conveyance
of Mails.*

Arbitrators
to be nomi-
nated with-
in 14 days
after notice.

19. And be it enacted, That whenever the term "company of proprietors," or "railway company," or "company" is used in this act, the same shall extend to and be construed to include the proprietors for the time being of any railway, whether a body corporate or individuals, and also (during the continuance of any demise or lease as aforesaid) any person, whether a body corporate or company or individuals, to whom any railway or part of a railway may previous to the passing of this act have been demised or let, and their successors, executors, administrators, and assigns, unless the subject or context be otherwise repugnant to such construction; and that the provisions of this act shall be construed according to the respective interpretations of the terms and expressions contained in an act passed in the first year of the reign of her present Majesty, intituled "An Act for consolidating the laws relative to Offences against the Post-office of the United Kingdom, and for regulating the judicial administration of the Post-office Laws, and for explaining certain terms and expressions employed in those laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such provisions; and that this present act shall be deemed and construed to be a post-office act within the intent and meaning of the said last-mentioned act; and the pecuniary penalties hereby imposed shall be recovered and recoverable in the manner and form therein particularly mentioned and expressed with reference to the pecuniary penalties imposed by the post-office acts: Provided nevertheless, that any justice of the peace having jurisdiction for any county through which any railway shall pass, in respect of which any penalty or forfeiture under this act shall have been in-

Interpreta-
tion of
Words.

"Company
of Proprie-
tors,"
"Railway
Company,"
"Company"

and accord-
ing to the
1 Vict.c. 36.

Proviso.

Conveyance of Mails. curred, shall and may hear and determine any offence against this act which may subject any company to a pecuniary penalty not exceeding twenty pounds; and a summons issued under the post-office acts by any such justice against any railway company for the recovery of any such penalty shall be deemed to be sufficiently served in case either the summons or a copy thereof be delivered to any officer, servant, or agent of such company, or be left at any station belonging to such company.

Act may be amended or repealed.

20. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of Parliament.

2 & 3 VICT. cap. 45.

An Act to amend an Act of the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth relating to Highways.

[17th August, 1839.]

5 & 6 W. 4, c. 50. WHEREAS by an act passed in the session of parliament holden in the fifth and sixth years of the reign of his late majesty king William the fourth, intituled "An Act to consolidate and amend the Laws relating to Highways in that Part of Great Britain called England," it is amongst other things by the said act enacted, that whenever a railroad shall cross any highway for carts or carriages the proprietors of the said railroad shall make and maintain good and sufficient gates at each of the said crossings, and shall employ good and proper persons to attend to the opening and shutting of such gates, so that the persons, carts, or carriages passing along such road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railroad, and any complaint for any neglect in respect of the said gates shall be made within one month after the said neglect to one justice, who may summon the party so complained against to appear before the justices at their next special sessions for the highways, who shall hear and decide upon the said complaint, and the proprietor so offending shall forfeit any sum not exceeding five pounds: and whereas it is also by the said act further enacted, that nothing in this act contained shall apply to any

turnpike roads, except where expressly mentioned, or to any roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchyards, or pavements which now are or may hereafter be paved, repaired, or cleansed, broken up or diverted, under or by virtue of the provisions of any local or personal act or acts of parliament: and whereas it is deemed expedient to amend the said provisions in the said act, and to extend the same to turnpike roads in England: be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same,

1. That wherever a railroad crosses or shall hereafter cross any turnpike road or any highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the company of proprietors of the said railroad shall make and maintain good and sufficient gates across each end of such turnpike or other road as aforesaid at each of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages passing along such turnpike or highway shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railroad; and any complaint for any neglect in respect of the said gates shall be made within one calendar month after the said neglect to any justice of the peace, or if in Scotland to the sheriff of the county, who may summon the party so complained against to appear before them or him at the next petty sessions or court to be holden for the district or division within which such gates are situate, who shall hear and decide upon the said complaint; and the proprietor or director so offending shall for each and every day of such neglect forfeit any sum not exceeding five pounds, together with such costs as to the justices or sheriff depute aforesaid before whom the conviction shall take place shall seem fit.

Proprietors
of railroad
to maintain
gates where
any railroad
crosses the
highway,
&c.
Recited by
5 & 6 Vict.
c. 55, s. 9.

Penalty 5*l*.
for each
day's
neglect.

2. And be it further enacted, that the penalties by this act imposed, and the costs to be allowed and ordered by the authority of this act, shall in England be recovered and applied in the same manner as any penalties and costs under the said act, and in Scotland shall be recovered and applied to the maintenance of the statute labour roads within the district where the offence is committed.

How penal-
ties shall
be recover-
ed and
applied.

Commence- 3. And be it further enacted, that this act shall com-
ment of act. mence and take effect from and after the thirtieth day of
September, one thousand eight hundred and thirty-nine.

3 & 4 VICT. cap. 97.

An Act for regulating Railways.

[10th August, 1840.]

Preamble. WHEREAS it is expedient for the safety of the public to provide for the due supervision of railways:

Opening of 1. Be it therefore enacted, by the Queen's most excel-
Railways. lent Majesty, by and with the advice and consent of the

— Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, after two months from the passing of this
Repealed by 5 & 6 Vict. act, no railway, or portion of any railway, shall be opened
c. 55, s. 3. for the public conveyance of passengers or goods until one calendar month after notice in writing of the intention of opening the same shall have been given by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations.

Repealed by 5 & 6 Vict. 2. And be it enacted, That if any railway, or portion of
c. 55, s. 3. any railway, shall be opened without due notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open, until the expiration of one calendar month after the company shall have given the like notice as is hereinbefore required before the opening of the railway; and any such penalty may be recovered in any of her Majesty's courts of record.

Returns to 3. And be it enacted, That the lords of the said com-
be made by mittee may order and direct every railway company to
Company. make up and deliver to them returns, according to a form to be provided by the lords of the said committee, of the

aggregate traffic in passengers, according to the several classes, and of the aggregate traffic in cattle and goods respectively, on the said railway, as well as of all accidents which shall have occurred thereon attended with personal injury, and also a table of all tolls, rates, and charges from time to time levied on each class passengers, and on cattle and goods, conveyed on the said railway; and if the returns herein specified shall not be delivered within thirty days after the same shall have been required, every such company shall forfeit to her Majesty the sum of twenty pounds for every day during which the said company shall wilfully neglect to deliver the same; and every such penalty may be recovered in any of her Majesty's courts of record: Provided always, that such returns shall be required, in like manner and at the same time, from all the said companies, unless the lords of the said committee shall specially exempt any of the said companies, and shall enter the grounds of such exemption in the minutes of their proceedings.

4. And be it enacted, That every officer of any company who shall wilfully make any false return to the lords of the said committee shall be deemed guilty of a misdemeanor.

5. And be it enacted, That it shall be lawful for the lords of the said committee, if and when they shall think fit, to authorize any proper person or persons to inspect any railway; and it shall be lawful for every person so authorized, at all reasonable times, upon producing his authority, if required, to enter upon and examine the said railway, and the stations, works, and buildings, and the engines and carriages belonging thereto: *Provided always, that no person shall be eligible to the appointment as inspector as aforesaid who shall within one year of his appointment have been a director or have held any office of trust or profit under any railway company.*

6. And be it enacted, That every person wilfully obstructing any person, duly authorized as aforesaid, in the execution of his duty, shall, on conviction before a justice of the peace having jurisdiction in the place where the offence shall have been committed, forfeit and pay for every such offence any sum not exceeding ten pounds; and on default of payment of any penalty so adjudged, immediately or within such time as the said justice of the peace shall appoint, the same justice, or any other justice having jurisdiction in the place where the offender shall be or reside, may commit the offender to prison for any period not exceeding three calendar months; such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to

Board of Trade may require returns of traffic and accidents, and a table of tolls.

Penalty for making false returns.

Inspectors of Railways.

Appointment of, by Board of Trade.

Repealed by 7 & 8 Vict. c. 85, s. 15

Penalty for obstructing inspector.

the next ensuing Court of Quarter Sessions in the usual manner.

Bye-Laws.

7. And whereas many railway companies are or may hereafter be empowered by act of parliament to make bye-laws, orders, rules, or regulations, and to impose penalties for the enforcement thereof, upon persons other than the servants of the said companies, and it is expedient that such powers should be under proper control; be it enacted, That true copies of all such bye-laws, orders, rules, and regulations made under any such powers by every such company before the passing of this act, certified in such manner as the lords of the said committee shall from time to time direct, shall, within two calendar months after the passing of this act, be laid before the lords of the said committee; and that every such bye-law, order, rule, or regulation, not so laid before the lords of the said committee within the aforesaid period, shall, from and after that period, cease to have any force or effect, saving in so far as any penalty may have been then already incurred under the same.

8. And be it enacted, That no such bye-law, order, rule, or regulation made under any such power, and which shall not be in force at the time of the passing of this act, and no order, rule, or regulation annulling any such existing bye-law, rule, order, or regulation which shall be made after the passing of this act, shall have any force or effect until two calendar months after a true copy of such bye-law, order, rule, or regulation, certified as aforesaid, shall have been laid before the lords of the said committee, unless the lords of the said committee shall, before such period, signify their approbation thereof.

9. And be it enacted, That it shall be lawful for the lords of the said committee, at any time either before or after any bye-law, order, rule, or regulation shall have been laid before them as aforesaid shall have come into operation, to notify to the company who shall have made the same their disallowance thereof, and, in case the same shall be in force at the time of such disallowance, the time at which the same shall cease to be in force; and no bye-law, order, rule, or regulation which shall be so disallowed shall have any force or effect whatsoever, or, if it shall be in force at the time of such disallowance, it shall cease to have any force or effect at the time limited in the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same.

Provisions requiring confirmation.

10. And be it enacted, That so much of every clause, provision, and enactment in any act of parliament heretofore passed as may require the approval or concurrence

of any justice of the peace, court of quarter sessions, or other person or persons, other than members of the said companies, to give validity to any bye-laws, orders, rules, or regulations made by any such company, shall be repealed.

11. And be it enacted, That whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any of the said companies, or the provisions of this act, have not been complied with on the part of any of the said companies, or any of their officers, and that it would be for the public advantage that the due performance of the same should be enforced, the lords of the said committee shall certify the same to her Majesty's Attorney-General for England, or Ireland, or to the Lord-Advocate for Scotland, as the case may require; and thereupon the said Attorney-General or Lord-Advocate shall, by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding, as the case may require, proceed to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts: provided always, that no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice of their intention to give the same to the company against or in relation to whom they shall intend to give the same.

Prosecutions to enforce provisions of railway acts.
Repealed by 7 & 8 Vict. c. 85, s. 16.

12. And be it enacted, That no legal proceedings shall be commenced under the authority of the lords of the said committee against any railway company for any offence against this act, or any of the several acts of parliament relating to railways, except upon such certificate of the lords of the said committee as aforesaid, and within one year after such offence shall have been committed.

Amended by 7 & 8 Vict. c. 85, s. 18.

13. And be it enacted, That it shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, guard, porter, or other servant in the employ of such company who shall be found drunk while employed upon the railway, or commit any offence against any of the bye-laws, rules, or regulations of such company, or shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon the railway belonging to such company, or the works thereof respectively, shall be or might be injured or endangered, or whereby the passage of any of the engines, carriages, or trains shall be or might be obstructed or im-

Railway servants guilty of misconduct.

Amended by 5 & 6 Vict. c. 86, s. 17.

Railway servants guilty of misconduct.

peded, and to convey such engine driver, guard, porter, or other servant so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch, before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this act; and every such person so offending, and every person counselling, aiding, or assisting therein as aforesaid, shall, when convicted before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him made, upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises,) in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour as aforesaid, for such period, not exceeding two calendar months, as such justice shall appoint; such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

Justice may send any case to be tried at the quarter sessions

14. Provided always, and be it enacted, That (if upon the hearing of any such complaint he shall think fit) it shall be lawful for such justice, instead of deciding upon the matter of complaint summarily, to commit the person or persons charged with such offence for trial for the same at the quarter sessions for the county or place wherein such offence shall have been committed, and to order that any such person so committed shall be imprisoned and detained in any of her Majesty's gaols or houses of correction in the said county or place in the meantime, or to take bail for his appearance, with or without sureties, in his discretion; and every such person so offending, and convicted before such court of quarter sessions as aforesaid (which said court is hereby required to take cognizance of and hear and determine such complaint), shall be liable, in the discretion of such court, to be imprisoned, with or without hard labour, for any term not exceeding two years.

Obstructions.

Repealed (as to England and Ireland) by 24 & 25 Vict. c. 95.

15. And be it enacted, That from and after the passing of this act every person who shall wilfully do or cause to be done anything in such manner as to obstruct any engine or carriage using any railway, or to endanger the safety of persons conveyed in or upon the same, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court before which he shall have been convicted, to be imprisoned, with or without hard labour, for any term not exceeding two years.

16. And be it enacted, That if any person shall wilfully obstruct or impede any officer or agent of any railway company in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith, or if any person shall wilfully trespass upon any railway, or any of the stations or other works or premises connected therewith, and shall refuse to quit the same upon request to him made by any officer or agent of the said company, every such person so offending, and all others aiding or assisting therein, shall and may be seized and detained by any such officer or agent, or any person whom he may call to his assistance, until such offender or offenders can be conveniently taken before some justice of the peace for the county or place wherein such offence shall be committed, and when convicted before such justice as aforesaid (who is hereby authorized and required, upon complaint to him upon oath, to take cognizance thereof, and to act summarily in the premises), shall, in the discretion of such justice, forfeit to her Majesty any sum not exceeding five pounds, and in default of payment thereof shall or may be imprisoned for any term not exceeding two calendar months, such imprisonment to be determined on payment of the amount of the penalty.

Obstructions.

Punishment of persons obstructing officers of railway, or trespassing.

17. And be it enacted, That no proceeding to be had Proceed- and taken in pursuance of this act shall be quashed or ings not to vacated for want of form, or be removed by certiorari, or be quashed by any other writ or process whatsoever, into any of her form, &c. Majesty's courts of record at Westminster or elsewhere, any law or statute to the contrary notwithstanding.

18. And whereas many railway companies are bound, by the provisions of the acts of parliament by which they are incorporated or regulated, to make, at the expense of the owner or occupier of lands adjoining the railway, openings in the ledges or flanches thereof (except at certain places on such railway in the said acts specified), for effecting communications between such railway and any collateral or branch railway to be laid down over such lands, and any disagreement or difference which shall arise as to the proper places for making any such openings in the ledges or flanches is by such acts directed to be referred to the decision of any two justices of the peace within their respective jurisdictions: and whereas it is expedient that so much of every clause, provision, and enactment in any act of parliament heretofore passed, as gives to any justice or justices the power of hearing or deciding upon any such disagreement or difference as to the proper places for any such openings in the ledges or flanches of any railway, should be repealed; be it there-

By such Railways.

Repeal of provisions in railway acts empowering justices to decide disputes.

*Branch
Railways.*

Board of
Trade to de-
termine
such dis-
putes in
future.

*Service of
notices.*

to Board of
Trade,

on com-
pany.

*Interpreta-
tion of
words.*

"Railway."

"Company"

Act may be
amended or
repealed.

fore enacted, That so much of every such clause, provision, and enactment as aforesaid shall be repealed.

19. And be it enacted, That in case any disagreement or difference shall arise between any such owner or occupier or other persons, and any railway company, as to the proper places for any such openings in the ledges or flanches of any railway (except at such places as aforesaid), for the purpose of such communication, then the same shall be left to the decision of the lords of the said committee, who are hereby empowered to hear and determine the same in such way as they shall think fit, and their determination shall be binding on all parties.

20. And be it enacted, That all notices, returns, and other documents required by this act to be given to or laid before the lords of the said committee, shall be delivered at or sent by the post to the office of the lords of the said committee; and all notices, appointments, requisitions, certificates, or other documents in writing, signed by one of the secretaries of the said committee, or by some officer appointed for that purpose by the lords of the said committee, and purporting to be made by the lords of the said committee, shall, for the purposes of this act, be deemed to have been made by the lords of the said committee; and service of the same upon any one or more of the directors of any railway company, or on the secretary or clerk of the said company, or by leaving the same with the clerk or officer at one of the stations belonging to the said company, shall be deemed good service upon the said company.

21. And be it enacted, That wherever the word "railway" is used in this act it shall be construed to extend to all railways constructed under the powers of any act of parliament, and intended for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and wherever the word "company" is used in this act, it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless the subject or context be repugnant to such construction.

22. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

5 & 6 VICT. cap. 55.

*An Act for the better Regulation of Railways,
and for the Conveyance of Troops.*
[30th July, 1842.]

WHEREAS by an Act passed in the third and fourth years of the reign of her present Majesty, intituled, "An Act for Regulating Railways," provision was made for the supervision of railways: and whereas it is expedient for the safety of the public to make further provision for that purpose;

1. Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall come into operation on the passing thereof.

2. And be it enacted, That the provisions of the said act, except so far as the provisions of the said recited act are hereby repealed, or shall be inconsistent with the provisions of this act.

3. And whereas by the said recited act it is enacted, that after two months from the passing of the said recited act no railway, or portion of any railway, shall be opened for the public conveyance of passengers or goods until one calendar month after notice in writing of the intention of opening the same shall have been given, by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations: and whereas by the said recited act it is also enacted, that if any railway or portion of any railway shall be opened without due notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open, until the expiration of one calendar month after the company shall have given the like notice as is hereinbefore required before the opening of the railway, and any such penalty may be recovered in any of her Majesty's courts of record; be it enacted, That the said recited provisions of the said act shall be and they are hereby repealed.

4. And be it enacted, That no railway or portion of any railway shall be opened for the public conveyance of passengers until one calendar month after notice in writing of the intention of opening the same shall have been given,

Preamble.
3 & 4 Vict.
c. 97.

Commence-
ment of this
act.

3 & 4 Vict.
c. 97, & this
act to be
construed
together.

Opening of
railways.

Repeal of
3 & 4 Vict.
c. 97, s. 1
and 2.

Notice of
intended
opening to
be given

Opening of railways. by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations, and until ten days after notice in writing shall have been given by the said company to the lords of the said committee of the time when the said railway or portion of railway will be, in their opinion, sufficiently completed for the safe conveyance of passengers, and ready for inspection.

to Board
of Trade.

Penalty for
opening
without
notice.

5. And be it enacted, That if any railway or portion of any railway shall be opened without such notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open until the said notices shall have been duly given and shall have expired; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland.

Board of
Trade may
postpone
the opening
if inspector
report that
the same
would be
attended
with
danger.

6. And be it enacted, That if the officer or officers appointed by the lords of the said committee to inspect any such railway or portion of railway shall, after inspection thereof, report in writing to the lords of the said committee that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, together with the grounds of such opinion, it shall be lawful for the lords of the said committee, and so from time to time, as often as such officers shall after further inspection thereof so report, to order and direct the company to whom such railway shall belong to postpone such opening for any period not exceeding one calendar month at any one time, until it shall appear to the lords of the said committee that such opening may take place without danger to the public; and if any such railway, or any portion thereof, shall be opened contrary to any such order and direction of the lords of the said committee, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open contrary to such order and direction; and any such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland: provided always, that no such order as aforesaid shall be binding upon any railway company unless therewith shall be delivered to the said company a copy of the report of the officer or officers on which such order shall be founded.

Proviso.

7. And be it enacted, That every railway company shall, within forty-eight hours after the occurrence upon the railway belonging to such company of any accident attended with serious personal injury to the public using the same, give notice thereof to the lords of the said committee; and if any company shall wilfully omit to give such notice, every such company shall forfeit to her Majesty the sum of five pounds for every day during which the omission to give the same shall continue; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland.

Accidents.
—
when attended with personal injury, notice of, to be given to Board of Trade.

8. And be it enacted, That the lords of the said committee may order and direct any railway company to make up and deliver to them returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the lords of the said committee shall deem necessary and require for their information with a view to the public safety; and if any such returns shall not be so delivered within fourteen days after the same shall have been required, every such company shall forfeit to her Majesty the sum of five pounds for every day during which the said company shall neglect to deliver the same; and every such penalty may be recovered in any of her Majesty's courts of record, or in the courts of session or in any of the sheriffs' courts in Scotland: provided always, that all such returns shall be privileged communications, and shall not be evidence in any court whatsoever.

Board of Trade may direct returns of accidents, whether attended with personal injury or not.

Proviso.

9. And whereas by an Act passed in the second and third years of her present Majesty, and intituled, "An Act to amend an Act of the fifth and sixth years of his late Majesty King William the Fourth relating to Highways," it was enacted, that whenever a railway crosses or shall hereafter cross any turnpike road, or any other highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the said railway shall make and maintain good and sufficient gates across each end of such turnpike or other road at each end of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages passing along such turnpike or other road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railway. and whereas by the acts relating to certain railways it is provided that such gates shall be kept constantly closed across the railway except during the time when carriages or engines passing along the railway shall have to cross

Gates at level crossings.

2 & 3 Vict. c. 45, s. 1.

Gates at level crossings.

Gates to be kept closed across the road.

Board of Trade may order that gates be kept closed across the railway.

Fences.

Company to erect and maintain throughout the whole of the line.

Disputes between connecting railways

to be decided by the Board of Trade.

such turnpike or other road : and whereas experience has shown that it is more conducive to safety that such gates should be kept closed across the turnpike or other road instead of across the railway ; be it therefore enacted, That, notwithstanding anything to the contrary contained in any act of parliament heretofore passed, such gates shall be kept constantly closed across each end of such turnpike or other roads, in lieu of across the railway, except during the time when horses, cattle, carts, or carriages passing along such turnpike or other road shall have to cross such railway ; and such gates shall be of such dimensions and so constructed as, when closed across the ends of such turnpike or other roads, to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway while the gates are closed : provided always, that it shall be lawful for the lords of the said committee, in any case in which they are satisfied that it will be more conducive for the public safety that the gates at any level crossing over any such turnpike or other road should be kept closed across the railway, to order and direct that such gates shall be kept so closed, instead of across the road ; and such order of the lords of the said committee shall be a sufficient authority for the directors or proprietors of any railway company to whom such order is addressed for keeping such gates closed, in the manner directed by the lords of the said committee.

10. And whereas it is expedient that further provision be made for the safety of the public in respect of the fences of railways ; be it enacted, That all railway companies shall be under the same liability of obligation to erect, and to maintain and repair, good and sufficient fences throughout the whole of their respective lines, as they would have been if every part of such fences had been originally ordered to be made under an order of justices by virtue of the provisions to that effect in the acts of parliament relating to such railways respectively.

11. And be it enacted, That where two or more railway companies whose railways have a common terminus or a portion of the same line of rails in common, or which form separate portions of one continued line of railway communication, shall not be able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, it shall be lawful for the lords of the said committee, upon the application of either of the parties, to decide the questions in dispute between them, so far as the same relate to the safety of the public, and to order and determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne

by either of the parties respectively; and if any railway company shall refuse or wilfully neglect to obey any such order made upon or against such company by the lords of the said committee pursuant to this provision, such company shall forfeit to her Majesty the sum of twenty pounds per day for every day during which such refusal or neglect shall continue; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session or in any of the sheriffs courts in Scotland.

*Disputes
between
connect-
ing rail-
ways.*

12. And whereas powers of laying down branch lines opening into the ledges or flanches of main lines of railway, and of entering upon and passing along such main lines with carriages and waggons drawn by locomotive engines, or by other mechanical or animal power, and also powers to form roads or railways across existing railways on a level, have been given by various acts relative to railways to the owners or occupiers of lands adjoining the railway, and to other persons with their consent: and whereas experience has shown that the exercise of such powers without limitation would in many cases be attended with danger to the public using such railway; be it therefore enacted, That if, in the case of any railway on which passengers are conveyed by steam or other mechanical power, it shall appear to the lords of the said committee that such power as aforesaid cannot be so exercised without seriously endangering the public safety, and that an arrangement may be made with a due regard to existing rights of property, it shall be lawful for the lords of the said committee to order and direct that such powers shall only be exercised subject to such conditions as the lords of the said committee shall direct: provided always, that no railway shall be considered a passenger railway if two-thirds or more of the gross annual revenue of such railway shall be derived from the carriage thereon of coals, ironstone, or other metals or minerals.

*Branch
Railways.*

*Powers of
making, to
be regu-
lated by the
Board of
Trade.*

*A passenger
railway de-
fined.*

13. And whereas in many cases railways have been made to cross turnpike roads, highways, and private roads and tramways on the level, and the companies to whom such railways belong would in some cases be willing, at their own expense, to carry such roads and tramways over or under such railways by means of a bridge or archway for the greater safety of the public, but have no authority so to do: and whereas it would promote the public safety if railway companies were enabled, under the sanction and authority of the lords of the said committee, to substitute bridges or archways for such level crossings as aforesaid; be it therefore enacted, That in all cases where any railway company shall be willing, at their own expense, to carry any turnpike road,

*Alteration
of level
crossings.*

*Board of
Trade may
authorize
company to
carry roads
over or
under rail-
way.*

**Alteration
of level
crossings.**

highway, or private road or tramway over or under their railway by means of a bridge or arch in lieu of crossing the same on the level, it shall be lawful for the lords of the said committee, on the application of the said company, and after hearing the several parties interested, if it shall appear to the lords of the said committee that such level crossing endangers the public safety, and that the proposal of the company does not involve any violation of existing rights or interests without adequate compensation, to give the said company full power and authority for removing the danger at their own expense, either by building a bridge, or by such other arrangement as the nature of the case shall require, subject to such conditions as the lords of the said committee shall direct.

**Entry upon
adjoining
lands.**

Board of
Trade may
authorize
company to
enter upon
adjoining
lands, to re-
pair or pre-
vent acci-
dents.

14. And whereas it is essential for the public safety, and also for the proper maintenance of railways in a state of efficiency for the public service, that railway companies should have the power, in case of accidents or slips happening or being apprehended to their cuttings and embankments or other works, to enter upon the lands adjoining their respective railways, for the purpose of repairing or renewing the same, and to do such works as may be necessary for the purpose; be it therefore enacted, That it shall be lawful for the lords of the said committee to empower any railway company, in case of any accident or slip happening or being apprehended to any cutting, embankment, or other work belonging to them, to enter upon any lands adjoining their railway for the purpose of repairing or preventing such accident, and to do such works as may be necessary for the purpose: provided always, that in case of necessity it shall be lawful for any railway company to enter upon such lands and do such works as aforesaid, without having obtained the previous sanction of the lords of the said committee; but in every such case such railway company shall, within forty-eight hours after such entry, make a report to the lords of the said committee, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the lords of the said committee shall, after considering the said report, certify that their exercise is not necessary for the public safety: provided also, that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch; and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall

**Compensa-
tion to own-
ers and
occupiers.**

be settled in the same manner as cases of disputed compensation are directed to be settled by the acts relating to the railway on which such works may become necessary: provided always, that no land shall be taken permanently by any railway company for such works without a certificate from the lords of the said committee as hereinafter described.

15. And whereas by various acts relating to railways compulsory powers are given to railway companies of purchasing and taking lands for the construction of such railways, and it is provided that such compulsory powers shall not be exercised after the expiration of certain limited periods from the passing of the said acts: and whereas it is sometimes found necessary for the public safety that additional land should be taken after the expiration of such periods for the purpose of giving increased width to the embankments and inclination to the slopes of railways, or for making approaches to bridges or archways, or for doing such works for the repair or prevention of accidents as are hereinbefore described; be it therefore enacted, That, in every case in which the lords of the said committee shall certify that the public safety requires additional land to be taken by any railway company for such purposes as aforesaid, the compulsory powers of purchasing and taking land contained in the act or acts of such railway company, together with all the clauses and provisions relative thereto, shall, as regards such portion or portions of land as are mentioned in the certificate of the lords of the said committee, revive and be in full force for such further period as shall be mentioned in such certificate: provided always, that any railway company applying to the lords of the said committee for any such certificate shall give fourteen days' notice in writing, in the manner prescribed by the act or acts of such company for serving notices on land owners, of their intention to make such application to all the parties interested in such lands, or such of them as shall be known to the company, and shall state in such notice the particulars of the lands required; and if any of such parties interested shall apply within the said period of fourteen days to the lords of the said committee, such party shall be heard by them before any such certificate is given: provided also, that where any such application shall have been made by any railway company to the lords of the said committee, upon which application any such certificate shall have been refused, the directors of such railway company shall, if required by the lords of the said committee, repay to the party resisting such application any expenses which he or they may have incurred in resisting such application.

Entry upon adjoining lands.

Compulsory powers of taking land.

Board of Trade may extend the, if thought necessary for safety.

Company applying to Board of Trade to give notice to owners, and state particulars of lands required.

Carriages.

Repeal of provisions restricting weight of carriages to four tons,

may be used of a greater weight.

Railway servants guilty of misconduct.

Punishment of persons employed on railways guilty of misconduct.

See 3 & 4 Vict. c. 97, s. 13 & 14.

16. And whereas by various acts relating to railways it is enacted, that no carriage or waggon shall carry or bear at any one time upon the railway (including the weight of such carriage) more than four tons, and experience has shown that it is in many cases more conducive to safety to use a heavier description of carriage or waggon upon railways than was originally contemplated; be it therefore enacted, That every provision contained in any such act or acts respectively limiting the weight to be carried or borne at any one time in any carriage or waggon upon any railway (including the weight of such carriage or waggon) to four tons shall be and the same is hereby repealed, and that, notwithstanding any thing in any act contained, it shall be lawful for any railway company to use and to permit to be used upon any railway carriages or waggons carrying or bearing (including the weight of such carriage) a greater weight than four tons, subject to such regulations as may from time to time be made and be in force pursuant to any act or acts of parliament already or hereafter to be passed in that behalf.

17. And whereas by the said recited act for regulating railways provision is made for the punishment of servants of railway companies guilty of misconduct, and it is expedient to extend such provision; be it enacted, That it shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, waggon driver, guard, porter, servant, or other person employed by the said or by any other railway company, or by any other company or person, in conducting traffic upon the railway belonging to the said company, or in repairing and maintaining the works of the said railway, who shall be found drunk while so employed upon the said railway, who shall commit any offence against any of the bye-laws, rules, or regulations of the said company, or who shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engines, carriages, or trains shall be or might be obstructed or impeded, and to convey such engine driver, guard, porter, servant, or other person so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this act; and every such person so offending, and every person counselling, aiding or assisting therein, as aforesaid,

shall, when convicted upon the oath of one or more credible witness or witnesses before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him made upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises,) in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour, as aforesaid, for such period, not exceeding two calendar months, as such justice shall appoint, such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

*Railway
servants
guilty of
miscon-
duct.*

18. And be it enacted, That in all cases in which by the present or the said recited act for regulating railways it is provided that offenders shall be taken before one or more justices of the peace for the place within which the offence was committed, it shall be lawful, in case the offence is committed in Scotland, to take such offenders before the sheriff of the county, or other magistrate acting for the district within which such offence shall be committed, or where such offender shall be apprehended, without any warrant or authority other than this act; and such sheriff or magistrate is hereby empowered and required, on the application of the railway company, to proceed in all respects as if the words "sheriff or magistrate" had been substituted for the word "justice" in the said acts, and shall be entitled summarily, and without a jury, to execute the powers thereby and hereby committed to him.

*If offence
committed
in Scotland,
sheriffs to
have juris-
diction.*

19. And be it enacted, That all notices, returns, and other documents required by this act or by the said recited act to be given to or laid before the lords of the said committee shall be delivered at or sent by the post to the office of the lords of the said committee; and all notices, requisitions, orders, regulations, appointments, certificates, certified copies, and other documents in writing, signed by one of the secretaries of the said committee, or by some officer appointed for that purpose by the lords of the said committee, and purporting to be made by the lords of the said committee, shall, for the purposes of this and of the said recited act, be deemed to have been made by the lords of the said committee, and that in the absence of evidence to the contrary, without proof of the authority of the person signing the same or of the signature thereto;

*Service of
notices,
—
to Board of
Trade.*

Service of notices,

on company.

and service of the same at one of the terminal offices of any railway company on the secretary or clerk of the said company, or by sending the same by post addressed to him at such office, shall be deemed good service upon the said company.

Conveyance of military and police.

Amended by 7 & 8 Vict. c. 85, s. 12.

20. And be it enacted, That whenever it shall be necessary to move any of the officers or soldiers of her Majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition, and other necessaries and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the secretary at war and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance signed by the proper authorities.

Interpretation of words.

"Railway."

"Company"

21. And be it enacted, That whenever the word "railway" is used in this or in the said recited act it shall be construed to apply to all railways used or intended to be used for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and whenever the word "company" is used in this or in the said recited act it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless, in either of the above cases, the subject or context be repugnant to such construction.

Application of penalties.

22. And be it enacted, That all penalties under this act, for the application of which no special provision is made, shall be recovered in the name and for the use of her Majesty, in the manner provided by the said recited act for regulating railways.

Act may be amended or repealed.

23. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

5 & 6 VICT. cap. 79.

An Act to repeal the Duties payable on Stage Carriages and on Passengers conveyed upon Railways, and certain other Stamp Duties in Great Britain, and to grant other Duties in lieu thereof; and also to amend the Laws relating to the Stamp Duties (so far as relates to Railways). [5th August, 1842.]

WHEREAS (inter alia) by an act passed in the second and third years of the reign of his late majesty king William the fourth, intituled "An Act to repeal the Duties under the Management of the Commissioners of Stamps on Stage Carriages, and on Horses let for Hire in Great Britain, and to grant other Duties in lieu thereof; and also to consolidate and amend the Laws relating thereto," certain duties contained in the schedule (A.) to the last-mentioned act annexed were granted for and in respect of all passengers conveyed for hire along any railway in Great Britain in or upon carriages drawn or impelled by the power of steam or otherwise; and it is expedient that all the said duties should be repealed, and others granted in lieu thereof; be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same:

1. That from and after the commencement of this act Duties re- the aforesaid duties granted and imposed by the said pealed:— act passed in the second and third years of her majesty's reign, for and in respect of passengers conveyed Railway for hire along any railway in Great Britain, shall seven- passengers. rally cease and determine, and the same shall be and are hereby repealed.

2. And be it enacted, That in lieu of the duties by New duties this act repealed there shall be raised, levied, collected, to be le- and paid, unto and for the use of her majesty, her heirs vied. [See and successors, in and throughout Great Britain, for 7 & 8 Vict and in respect of the passengers conveyed upon any c. 85, s. 9, railway, the several duties or sums of money set down as to pas- in figures against the same respectively, or otherwise sengers by cheap specified and set forth in the same schedule; and that trains.]

the said schedule shall be deemed and taken to be a part of this act.

Accounts to be kept of money received for the conveyance of passengers on railways ;

4. And be it enacted, That the proprietor or company of proprietors of every railway in Great Britain, and every other person who shall carry or convey, or cause to be carried or conveyed, any passenger for hire in or upon any railway in Great Britain, shall, from time to time and at all times, keep and enter or cause to be entered in a book or books to be kept for that purpose, in such manner and form as the commissioners of stamps and taxes shall direct or approve, a just and true account of all and every sum and sums of money which shall be received or charged daily by or for such proprietor or company or other person for the hire, fare, or conveyance of all such passengers as aforesaid, whether the same shall be received for the conveyance of passengers on the railway of such proprietor or company or other person only, or on such last-mentioned railway and any other railway, or on any such other railway only, and for or in respect of all which sums of money the duties charged by this act shall, in manner herein-after directed, be paid by the said proprietor or company or other person so receiving or charging the same as aforesaid, without any deduction or abatement thereout on any account or pretence whatever ; and the proprietor or company of proprietors of any railway so receiving or charging any such sums of money as aforesaid shall also in like manner keep and enter or cause to be entered an account of all sums of money paid or accounted for, or to be paid or accounted for, by such proprietor or company to the proprietor or company of proprietors of any other railway (specifying the same) upon which any of such passengers shall be carried or conveyed, as his or their share or proportion of any of such sums of money so received or charged as aforesaid, or as for or in the nature of toll or otherwise for the use of such last-mentioned railway, in the conveyance of such passengers ; and the proprietor or company of proprietors of every such last-mentioned railway shall in like manner keep and enter or cause to be entered an account of all sums of money so paid or accounted for to him or them as last aforesaid, and for or in respect of which the duties shall or ought to have been paid as aforesaid by such first-mentioned proprietor or company ; and every such proprietor and company and other person and persons respectively shall, *within five days after the first Monday in every calendar month, deliver to the commissioners of stamps and to the com-* taxes, or to the proper officer appointed for receiving

and of money paid by the persons carrying such passengers to the proprietors of railways, on account of fares received or for the use of the railway.

Copies of the accounts to be delivered to the com-

the same, a true copy or true copies of the account or missioners accounts by this act directed to be kept, so far as the of inland same shall relate to all sums of money received or revenue, charged and paid or accounted for as aforesaid during the preceding four or five weeks, as the case may be; verified by (that is to say,) from and including the first Monday and duties in the preceding month up to the first Monday of the month in which such account shall be rendered or paid thereon monthly. ought to be rendered as aforesaid; and to and with By 26 & 27 every such account there shall be annexed and delivered Vict. c. 33, an affidavit (to be taken before any one of her majesty's s. 13, such justices of the peace) of such proprietor or other person accounts are to be as aforesaid, or of the secretary, chief clerk, or account- made up at ant of such proprietor or company or other person, the close of stating that the deponent is well acquainted with the each calen- books and accounts of the said proprietor, company, or dar month, or other person, and that he has examined and checked the same, and also the account to which such affidavit is and be de- annexed, and that to the best of his knowledge, infor- livered mation, and belief such last-mentioned account doth within 20 contain and is a true and faithful account of all and days there- every sum and sums of money received or charged by after. or for such proprietor or company or other person aforesaid for the hire, fare, or conveyance of passengers on any railway during the period comprised in such account, and of all other matters and things required by this act to be contained in such account; and such proprietor or company or other person shall, at the time of delivering every such account, pay or cause to be paid to the receiver general of stamps and taxes, or to the officer authorized by the said commissioners to receive the same, for the use of her majesty, the duties chargeable under this act for or in respect of all and every the sum and sums of money so received or charged as aforesaid, and contained or which ought to be contained in such account.

5. Provided always, and be it enacted, That it shall be lawful (where there shall be no express contract or agreement between the parties to the contrary) for any such proprietor or company to deduct from and retain out of the monies to be paid over to any such other proprietor or company as aforesaid, the amount of the duties by this act chargeable thereon, and which such proprietor or company receiving such monies shall have paid or be liable to pay. *Proprietors of railways to deduct the duties on the sums to be paid over to other proprietors.*

6. And be it enacted, That all and every the book and books of every such proprietor or company or other person, in which any account relating to such passengers, or to the money received or charged for the hire, *Books containing any such accounts to*

be open to inspection of officers of stamps.

Penalty for refusing to permit inspection.

Railway proprietors to give bond for securing the duties.

fare, or conveyance of the same, or to any money received from or paid or accounted for to any other proprietor or company for such hire, fare, or conveyance as aforesaid, or a proportion thereof, or as or for such toll as aforesaid, shall be entered or kept, shall be open for the inspection and examination at all seasonable times of any officer or officers of stamp duties authorized by the commissioners of stamps and taxes in that behalf; and every such officer shall be at liberty to take copies of or extracts from any such book or account as aforesaid; and if any such proprietor or other person, or the secretary or accountant, or any clerk or officer of any such proprietor or company or person, having or keeping the custody or possession of any such book, or having power to produce the same, shall, upon demand made by any such officer, and upon producing and showing his authority, refuse to permit such officer of stamp duties to inspect and examine such book, or to take copies thereof or extracts therefrom, or of or from any account entered or contained therein, or shall refuse to produce such book to such officer of stamp duties for his inspection and examination, every such person so offending shall for every such offence forfeit the sum of fifty pounds.

7. And be it enacted, That the proprietor or company of proprietors of every such railway, and every other person, before any passengers shall be conveyed or caused to be conveyed by him or them on any railway as aforesaid, shall give security, by bond, to her majesty, her heirs and successors, with a condition that such proprietor or company, or other person as aforesaid, shall from time to time enter and keep, and cause to be kept and rendered, in the manner directed by this act, the accounts by this act required to be kept and rendered by such proprietor and company and persons respectively, containing and setting forth justly, truly, and faithfully all the several matters and things by this act required to be contained and set forth therein; and that such proprietor or company or person, and his or their secretary, accountant, and clerk, and every other person under or subject to his or their order, direction, or control, having the custody or possession of any books or book of such proprietor or company or other person as aforesaid, in which any account relating to any passengers conveyed upon any railway, or the money received, charged, accounted for, or paid for the hire, fare, or conveyance of the same, shall be contained or entered, shall from time to time, upon every reasonable request of any officer of stamp duties authorized as aforesaid, produce and show to such officer, and per-

mit him to inspect and examine the same, and to take copies thereof or extracts therefrom, and of from any account entered or contained therein; and that such proprietor or company or other person aforesaid shall and will well and truly pay or cause to be paid, for the use of her majesty, her heirs and successors, at the times and in manner directed by this act, all and every the duties which shall from time to time become chargeable under this act, and payable by him or them upon or for or in respect of the passengers, or the hire or fare or conveyance of the passengers, which shall be so conveyed as aforesaid along any railway; and that such proprietor or company, or other person aforesaid, shall well and truly do and perform, and cause to be done and performed, all such acts, matters, and things as by this act are required or directed to be done or performed by or on the part or behalf of such proprietors or company or other person; and every such bond shall be taken with sufficient surties to the satisfaction of the commissioners of stamps and taxes, and in such sum as the said commissioners may judge to be reasonable and proper; and every such security shall be renewed from time to time, whenever and so often as such bond shall be forfeited, or as the parties to the same or any of them shall die, or become bankrupt or insolvent, or reside in parts beyond the seas, and also whenever and so often as the said commissioners shall in their discretion require the same to be renewed; and if any proprietor or company of proprietors of any such railway, or other person as aforesaid, shall convey or cause to be conveyed upon any railway any passengers for hire, without having first given such security by bond to her majesty, in manner herein-before directed, or if any proprietor or company of proprietors of any railway shall permit or suffer any passengers to be conveyed for hire upon such last-mentioned railway, by any other person or company, before such other person or company shall have given security as aforesaid, and before a certificate, signed by the proper officer of stamp duties in that behalf, (which certificate such officer is hereby authorized and required to give,) that such security hath been given, shall have been issued, or after notice in writing, signed by any authorized officer of stamp duties, and delivered to the secretary or chief clerk of the proprietor or company of proprietors of such railway, or left at the office of such railway with any clerk or officer there, that any such security ought, in pursuance of this act, to be renewed, or is required to be renewed, and before a certificate, signed as aforesaid, that the

42 Duties on Passengers upon Railways. [5 & 6 Vict. c. 79.

Penalty. same has been renewed, shall have been issued; or if any such proprietor or company of proprietors, or other person, shall refuse or neglect to renew such security, whenever and so often as the same is or shall by or in pursuance of this act be required to be renewed, such proprietor or company or person shall forfeit the sum of one hundred pounds, and the further sum of one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, or for every day on which any such passengers shall be permitted to be conveyed before such security shall be given or renewed, and a certificate thereof issued as aforesaid, according to the true intent and meaning of this act.

**Commence-
ment of act.** 26. And be it enacted, that this act shall commence and take effect on the respective days herein-after mentioned; (that is to say,) so much thereof as relates to the duties on passengers conveyed on railways shall commence and take effect on the first day of August in this present year one thousand eight hundred and forty-two.

SCHEDULE.

The **DUTIES** in respect of **PASSENGERS** conveyed for Hire by **CARRIAGES** travelling upon **RAILWAYS**; (that is to say,)

For and in respect of all passengers conveyed for hire upon or along any railway, a duty at and after the rate of 5*l.* for 100*l.* upon all sums received or charged for the hire, fare, or conveyance of all such passengers.

7 & 8 VICT. cap. 85.

An Act to attach certain Conditions to the Construction of Future Railways, authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other purposes in relation to Railways.

[9th August, 1844.]

WHEREAS it is expedient that the concession of powers for the establishment of new lines of railway should be subjected to such conditions as are hereinafter contained for the benefit of the public :

1. Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if at any time after the end of twenty-one years from and after the first day of January next after the passing of any act of the present or of any future session of parliament for the construction of any new line of passenger railway, whether such new line be a trunk, branch, or junction line, and whether such new line be constructed by a new company incorporated for the purpose or by any existing company, the clear annual profits divisible upon the subscribed and paid-up capital stock of the said railway, upon the average of the three then last preceding years, shall equal or exceed the rate of ten pounds for every hundred pounds of such paid-up capital stock, it shall be lawful for the lords commissioners of her Majesty's treasury, subject to the provisions hereinafter contained, upon giving to the said company three calendar months' notice in writing of their intention so to do, to revise the scale of tolls, fares, and charges limited by the act or acts relating to the said railway, and to fix such new scale of tolls, fares, and charges applicable to such different classes and kinds of passengers, goods, and other traffic on such railway, as in the judgment of the said lords commissioners, assuming the same quantities and kinds of traffic to continue, shall be likely to reduce the said divisible profits to the said rate of ten pounds in the hundred : provided always, that no such revised scale shall take effect, unless accompanied by a guarantee to subsist as long as any such revised scale of tolls, fares, and charges shall be in force, that the

Preamble.

Options of revision and purchase.

Treasury may revise the scale of tolls of future railways, and fix a new scale.

Proviso.

*Options of
revision
and pur-
chase.*

said divisible profits, in case of any deficiency therein, shall be annually made good to the said rate of ten pounds for every hundred pounds of such capital stock : provided also, that such revised scale shall not be again revised or such guarantee withdrawn, otherwise than with the consent of the company, for the further period of twenty-one years.

*Treasury
may pur-
chase
future rail-
ways.*

2. And be it enacted, That whatever may be the rate of divisible profits on any such railway, it shall be lawful for the said lords commissioners, if they shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of the said term of twenty-one years, to purchase any such railway, with all its hereditaments, stock, and appurtenances, in the name and on behalf of her Majesty, upon giving to the said company three calendar months' notice in writing of their intention, and upon payment of a sum equal to twenty-five years' purchase of the said annual divisible profits, estimated on the average of the three then next preceding years : provided that if the average rate of profits for the said three years shall be less than the rate of ten pounds in the hundred, it shall be lawful for the company, if they shall be of opinion that the said rate of twenty-five years' purchase of the said average profits is an inadequate rate of purchase of such railway, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the said company : provided also, that such option of purchase shall not be exercised, except with the consent of the company, while any such revised scale of tolls, fares, and charges shall be in force.

Proviso.

Proviso

*Options not
to be ap-
plied to ex-
isting rail-
ways.*

3. Provided always, and be it enacted, That the option of revision or purchase shall not be applied to any railway made or authorized to be made by any act previous to the present session ; and that no branch or extension of less than five miles in length of any such line of railway shall be taken to be a new railway within the provisions of this act ; and that the said option of purchase shall not be exercised as regards any branch or extension of any railway, without including such railway in the purchase, in case the proprietors thereof shall require that the same be so included.

*Options not
to be exer-
cised by
treasury
until autho-
rized by
parliament.*

4. And whereas it is expedient that the policy of revision or purchase should in no manner be prejudged by the provisions of this act, but should remain for the future consideration of the legislature, upon grounds of general and national policy : and whereas it is not the intention of this act that under the said powers of revision or pur-

chase, if called into use, the public resources should be employed to sustain an undue competition against any independent company or companies; be it enacted, That no such notice as hereinbefore mentioned, whether of revision or purchase, shall be given until provision shall have been made by parliament, by an act or acts to be passed in that behalf, for authorizing the guarantee or the levy of the purchase money hereinbefore mentioned, as the case may be, and for determining, subject to the conditions hereinbefore mentioned, the manner in which the said options or either of them shall be exercised; and that no bill for giving powers to exercise the said options, or either of them, shall be received in either house of parliament unless it be recited in the preamble to such bill that three months' notice of the intention to apply to parliament for such powers has been given by the said lords commissioners to the company or companies to be affected thereby.

*Options of
revision
and purchase.*

5. And be it enacted, That, from and after the commencement of the period of three years next preceding the period at which the option of revision or purchase becomes available, full and true accounts shall be kept of all sums of money received and paid on account of any railway within the provisions hereinbefore contained, (distinguishing, if the said railway shall be a branch railway or one worked in common with other railways, the receipts, and giving an estimate of the expenses on account of the said railway, from those on account of the trunk, line, or other railways,) by the directors of the company to whom such railway belongs or by whom the same may be worked; and every such railway company shall once in every half year, during the said period of three years, cause a half-yearly account in abstract to be prepared, showing the total receipt and expenditure on account of the said railway for the half-year ending the thirtieth day of June and the thirty-first day of December respectively, or such other convenient days as shall in each case be directed by the said lords commissioners, under distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified under the hands of two or more directors of the said railway company, and shall send a copy of the said account to the said lords commissioners on or before the last days of August and February respectively, or such other days as shall in each case be directed by the said lords commissioners, in each year; and it shall be lawful for the said lords commissioners, if and when they shall think fit, to appoint any proper person or persons to inspect the accounts and books of the said company during the said

*Companies
liable to the
options to
keep ac-
counts and
send copy
of balance-
sheet to the
Treasury.*

*Options of
revision
and pur-
chase.*

period of three years; and it shall be lawful for any person so authorized, at all reasonable times, upon producing his authority, to examine the books, accounts, vouchers, and other documents of the company at the principal office or place of business of the company, and to take copies or extracts therefrom.

*Cheap
Trains.*

Company to
provide one
cheap train
each way
daily.

6. And whereas it is expedient to secure to the poorer class of travellers the means of travelling by railway at moderate fares, and in carriages in which they may be protected from the weather; be it enacted, That on and after the several days hereinafter specified all passenger railway companies which shall have been incorporated by any act of the present session, or which shall be hereafter incorporated, or which by any act of the present or any future session have obtained or shall obtain, directly or indirectly, any extension or amendment of the powers conferred on them respectively by their previous acts, or have been or shall be authorized to do any act unauthorized by the provisions of such previous acts, shall, by means of one train at the least to travel along their railway from one end to the other of each trunk, branch, or junction line belonging to or leased by them, so long as they shall continue to carry other passengers over such trunk, branch, or junction line, once at the least each way on every week-day, except Christmas-day and Good Friday (such exception not to extend to Scotland), provide for the conveyance of third-class passengers to and from the terminal and other ordinary passenger stations of the railway, under the obligations contained in their several acts of parliament, and with the immunities applicable by law to carriers of passengers by railway; and also under the following conditions; (that is to say.)

*Hours of
starting.*

Such train shall start at an hour to be from time to time fixed by the directors, subject to the approval of the lords of the committee of privy council for trade and plantations:

*Rate of
speed.*

Such train shall travel at an average rate of speed not less than twelve miles an hour for the whole distance travelled on the railway, including stoppages:

Stoppages.

Such train shall, if required, take up and set down passengers at every passenger station which it shall pass on the line:

Carriages.

The carriages in which passengers shall be conveyed by such train shall be provided with seats, and shall be protected from the weather, in a manner satisfactory to the lords of the said committee:

Fares.
See 21 & 22
Vict. c. 75,
s. 1.

The fare or charge for each third-class passenger by such train shall not exceed one penny for each mile travelled:

Each passenger by such train shall be allowed to take Cheap
with him half a hundred weight of luggage, not being Trains.
merchandise or other articles carried for hire or profit, without extra charge; and any excess of luggage Luggage.
shall be charged by weight, at a rate not exceeding the lowest rate of charge for passengers' luggage by other trains:

Children under three years of age accompanying passengers by such train shall be taken without any charge, and children of three years and upwards, but under twelve years of age, at half the charge for an adult passenger: Children.

And with respect to all railways subject to these obligations which shall be open on or before the first day of November next, these obligations shall come into force on the said first day of November; and with respect to all other railways subject to these obligations, they shall come into force on the day of opening of the railway, or the day after the last day of the session in which the act shall be passed by reason of which the company will become subject thereunto, which shall first happen. When these obligations shall come into force on to commence.

7. And be it enacted, That if any railway company shall refuse or wilfully neglect to comply with the provisions of this act as to the said cheap trains within a reasonable time, or shall attempt to evade the operation of such order, such company shall forfeit to her Majesty a sum not exceeding twenty pounds for every day during which such refusal, neglect, or evasion shall continue. Penalty for non-compliance.

8. Provided always, and be it enacted, That, except as to the amount of fare or charge for each passenger by such cheap trains, which shall in no case exceed the rates hereinbefore in such case provided, the lords of the said committee shall have a discretionary power, upon the application of any railway company, of dispensing with any of the conditions hereinbefore required in regard to the conveyance of passengers by such cheap trains as aforesaid, in consideration of such other arrangements, either in regard to speed, covering from the weather, seats, or other particulars, as to the lords of the said committee shall appear more beneficial and convenient for the passengers by such cheap trains under the circumstances of the case, and shall be sanctioned by them accordingly; and any railway company which shall conform to such other conditions as shall be so sanctioned by the lords of the said committee shall not be liable to any penalty for not observing the conditions which shall have been so dispensed with by the lords of the said committee in regard to the said cheap trains and the passengers conveyed thereby. Board of Trade may dispense with conditions hereinbefore required in consideration of other arrangements more beneficial.

9. And be it enacted, That no tax shall be levied upon No passen-

ger tax on the receipts of any railway company from the conveyance
cheap of passengers at fares not exceeding one penny for each
trains. mile by any such cheap train as aforesaid.

Amended 10. And be it enacted, That whenever any railway
by 26 & 27 company subject to the hereinbefore mentioned obliga-
Vict. c. 33, tion of running cheap trains shall, from and after the days
s. 14. hereinbefore specified on which the said obligation is to
If company accrue, run any train or trains on Sundays for the convey-
run trains ance of passengers, it shall, under the obligations contained
on sundays, in its act or acts of parliament, and with the immunities
cheap applicable by law to carriers of passengers by railway, by
trains to be such train each way, on every Sunday, as shall stop at the
likewise greatest number of stations, provide sufficient carriages for
provided. the conveyance of third class passengers at the terminal
and other stations at which such Sunday train may ordi-
narily stop; and the fare or charge for each third class
passenger by such train shall not exceed one penny for
each mile travelled.

*Convey-
ance of
mails.*

See 1 & 2
Vict. c. 98.

*Rate of
speed.*

*Mails by
trains other
than a mail
train.*

*Convey-
ance of
military
and police.*

11. And whereas by an act passed in the second year of the reign of her Majesty, intituled "An act to provide for the conveyance of the Mails by Railways," provision was made for the transmission of the mails by railway, and it is expedient that such provision should be extended, be it enacted, That it shall be lawful for the Postmaster-General to require, in the manner and subject to the conditions as to payment for service performed prescribed by the said act, that the mails be forwarded upon any such railway as is hereinbefore last mentioned at any rate of speed which the inspector-general of railways for the time being shall certify to be safe, not exceeding twenty-seven miles in the hour including stoppages; and it shall be also lawful for the Postmaster-General to send any mail guard with bags not exceeding the weight of luggage allowed to any other passenger (or subject to the general rules of the company for any excess of that weight) by any trains other than a mail train, upon the same conditions as any other passenger; provided that in such last-mentioned case nothing herein or in the last-recited act contained shall be construed to authorize the Postmaster-General to require the conversion of a regular mail train into an ordinary train, or to exercise any control over the company in respect of any ordinary train, nor shall the company be responsible for the safe custody or delivery of any mail bags so sent.

12. And whereas by an act passed in the sixth year of the reign of her Majesty, intituled "An Act for the better regulation of Railways, and for the conveyance of Troops," it was among other things enacted, that whenever it shall be necessary to move any of the officers or soldiers of her

Majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition, and other necessities and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the *secretary at war* and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance signed by the proper authorities: and whereas it is expedient to amend such provision in regard to the prices and conditions of conveyance by any new railway or any railway obtaining new powers from parliament; be it enacted, That all railway companies which have been or shall be incorporated by any act of the present or any future session, or which, by any act of the present or any future session shall have obtained or shall obtain any extension or amendment of the powers conferred by their previous acts or any of them, or have been or shall be authorized to do any act unauthorized by the provisions of such previous acts, shall be bound to provide such conveyance as aforesaid for the said military, marine, and police forces, at fares not exceeding twopence per mile for each commissioned officer proceeding on duty, such officer being entitled to conveyance in a first-class carriage, and not exceeding one penny for each mile for each soldier, marine, or private of the militia or police force, and also for each wife, widow, or child above twelve years of age of a soldier entitled by act of parliament or by competent authority to be sent to their destination at the public expense, children under three years of age so entitled being taken free of charge, and children of three years of age or upwards, but under twelve years of age, so entitled, being taken at half the price of an adult; and such soldiers, marines, and privates of the militia or police force, and their wives, widows, and children so entitled, being conveyed in carriages which shall be provided with seats, with sufficient space for the reasonable accommodation of the persons conveyed, and which shall be protected against the weather; provided that every officer conveyed shall be entitled to take with him one hundred weight of personal luggage without extra charge, and every soldier, marine, private, wife, or widow shall be entitled to take with him or her half a hundred weight of personal luggage without extra charge, all excess of the above weights of personal luggage being paid for at the rate of not more than one halfpenny per pound, and all public baggage, stores, arms, ammunition, and other necessities and things, (except

Conveyance of military and police.

See 5 & 6 Vict. c. 55, s. 20. "Secretary of State for War," see 26 Vict. c. 12.

Prices and conditions of conveyance.

By the entry of Seamen Act, 16 & 17 Vict. c. 69, s. 18, naval forces are to be conveyed upon the same terms as military and police.

Carriages to be provided with seats and protected against the weather.

ger tax
cheap
trains.

Amended
by 26 & 1
Vict. c. 3
s. 14.

If company
run trains
on Sunday
cheap
trains to be
likewise
provided.

*Convey-
ance of
mails.*

See 1 & 2
Vict. c. 9-

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train.

of Act.

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trains and
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extensively
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purposes
charges
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dispute
any

railway, and the stations, works, and buildings, and the engines and carriages belonging thereto; and in order to carry the provisions of this act into execution it is expedient that the said power be extended; be it enacted, That the said power given to the lords of the said committee of appointing proper persons to inspect railways shall extend to authorize the appointment by the lords of the said committee of any proper person or persons, for such purposes of inspection as are by the said act authorized, and also for the purpose of enabling the lords of the said committee to carry the provisions of this and of the said act, and of any general act relating to railways, into execution; and that so much of the last-recited act as provides that no person shall be eligible to the appointment as inspector who shall, within one year of his appointment, have been a director, or have held any office of trust or profit under any railway company, shall be repealed: provided always, that no person to be appointed as aforesaid shall exercise any powers of interference in the affairs of the company.

16. And whereas by the said act of the fourth year of the reign of her Majesty, intituled "An Act for regulating Railways," it is among other things enacted, that whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any railway companies, or the provisions of that act, have not been complied with on the part of any of the said companies or any of their officers, and that it would be for the public advantage that the due performance of the same should be enforced, the lords of the said committee shall certify the same to her Majesty's attorney-general for England or Ireland, or to the lord-advocate for Scotland, as the case may require; and thereupon the said attorney-general or lord-advocate shall, by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding (as the case may require), proceed to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts; provided always, that no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice of their intention to give the same to the company against or in relation to whom they shall intend to give the same: and whereas it is expedient that more effectual provision should be made, not only for enforcing a compliance on the part of railway companies with the provisions of their acts, but also for restraining

Inspectors of railways.

See 3 & 4 Vict. c. 97, s. 5. Extension of power of appointment of, by Board of Trade.

Repeal of proviso to 3 & 4 Vict. c. 97, s. 5.

Prosecutions to enforce provisions of railway acts.

Repeal of 3 & 4 Vict. c. 97, s. 11.

Prosecutions to enforce provisions of railway acts,

may be directed by the Board of Trade,

in cases of non-compliance with provisions of acts,

In cases of commission of acts unauthorized by law.

Notice of, to be given to the company.

railway companies from performing acts unauthorized by such provisions; be it enacted, That so much of the said act as is hereinbefore recited shall be repealed.

17. And be it enacted, that whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any railway company, or the provisions of this act or of any general act relating to railways, have not been complied with on the part of any railway company or any of its officers, or that any railway company has acted or is acting in a manner unauthorized by the provisions of the act or acts of parliament relating to such railway, or in excess of the powers given and objects defined by the said act or acts, and it shall also appear to the lords of the said committee that it would be for the public advantage that the company should be restrained from so acting, the lords of the said committee shall certify the same to her Majesty's attorney-general for England or Ireland, or to the lord-advocate for Scotland, as the case may require; and thereupon the said attorney-general or lord-advocate shall, in case such default of the railway company shall consist of non-compliance with the provisions of the act or acts relating thereto, or of this act, or of any general act relating to railways, proceed by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding, as the case may require, to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts; and in case the default of the railway company shall consist in the commission of some act or acts unauthorized by law, then the said attorney-general or lord-advocate, upon receiving such certificate as aforesaid, shall proceed by suit in equity, or such other legal proceeding as the nature of the case may require, to obtain an injunction or order (which the judge in equity or other judge to whom the application is made shall be authorized and required to grant, if he shall be of opinion that the act or acts of the railway company complained of is or are not authorized by law,) to restrain the company from acting in such illegal manner, or to give such other relief as the nature of the case may require.

18. Provided always, and be it enacted, That no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice to the company against or in relation to whom they shall intend to give such certificate of their intention to give such certificate; and that no legal pro-

**Prosecu-
tions to be
within one
year after
the offence.**

Learn Notes

**Already
issued to be
paid when
due.**

**Register of
to be kept.**

Loan Notes. and such register shall be open, without fee or reward, at all reasonable times, to the inspection of any shareholder or auditor of the undertaking, and of every person interested in any such loan note or other instrument, desirous of inspecting the same.

Tithe Rent. 22. And whereas the remedies now in force for the recovery of tithe commutation rent-charges are in many instances ineffectual for such parts thereof as are charged upon lands taken for the purposes of a railway, and it is therefore expedient to extend the said remedies when the said rent-charges may have been duly apportioned; be it enacted, That in all cases in which any such rent-charge, or part of any rent-charge, has been or hereafter shall be duly apportioned under the provisions of the acts for the commutation of tithes in England and Wales, upon lands taken or purchased by any railway company for the purposes of such company, or upon any part of such lands, it shall be lawful for every person entitled to the said rent-charge or parts of such rent-charge, in case the same has been or shall be in arrear and unpaid for the space of twenty-one days next after any half-yearly day fixed for the payment thereof, to distrain for all arrears of the said rent-charge upon the goods, chattels, and effects of the said company, whether on the land charged therewith, or any other lands, premises, or hereditaments of such company, whether situated in the same parish or elsewhere, and to dispose of the distress when taken, and otherwise to demean himself in relation thereto, as any landlord may for arrears of rent reserved on a lease for years: provided always, that nothing herein contained shall give or be construed to give a legal right to such rent-charge, when but for this act such rent-charge was not or could not be duly apportioned.

Service of notices, 23. And be it enacted, That all notices, requisitions, orders, regulations, appointments, certificates, certified copies, and other documents in writing, signed by some officer appointed for that purpose by the lords of the said committee, shall for the purposes of this act be deemed to have been made by the lords of the said committee; and all certificates of any thing done by the lords of the said committee in relation to this act, and certified copies of the minutes of proceedings or correspondence of the lords of the said committee in relation thereto, signed by such officer, shall be deemed sufficient evidence thereof, and that in the absence of evidence to the contrary, without proof of the authority of the person signing the same or of the signature thereto, and service of the same at one of the principal offices of any railway company on the secretary or clerk of the said company, or by sending the same

Remedy for recovery of, charged on railway land.

Proviso.

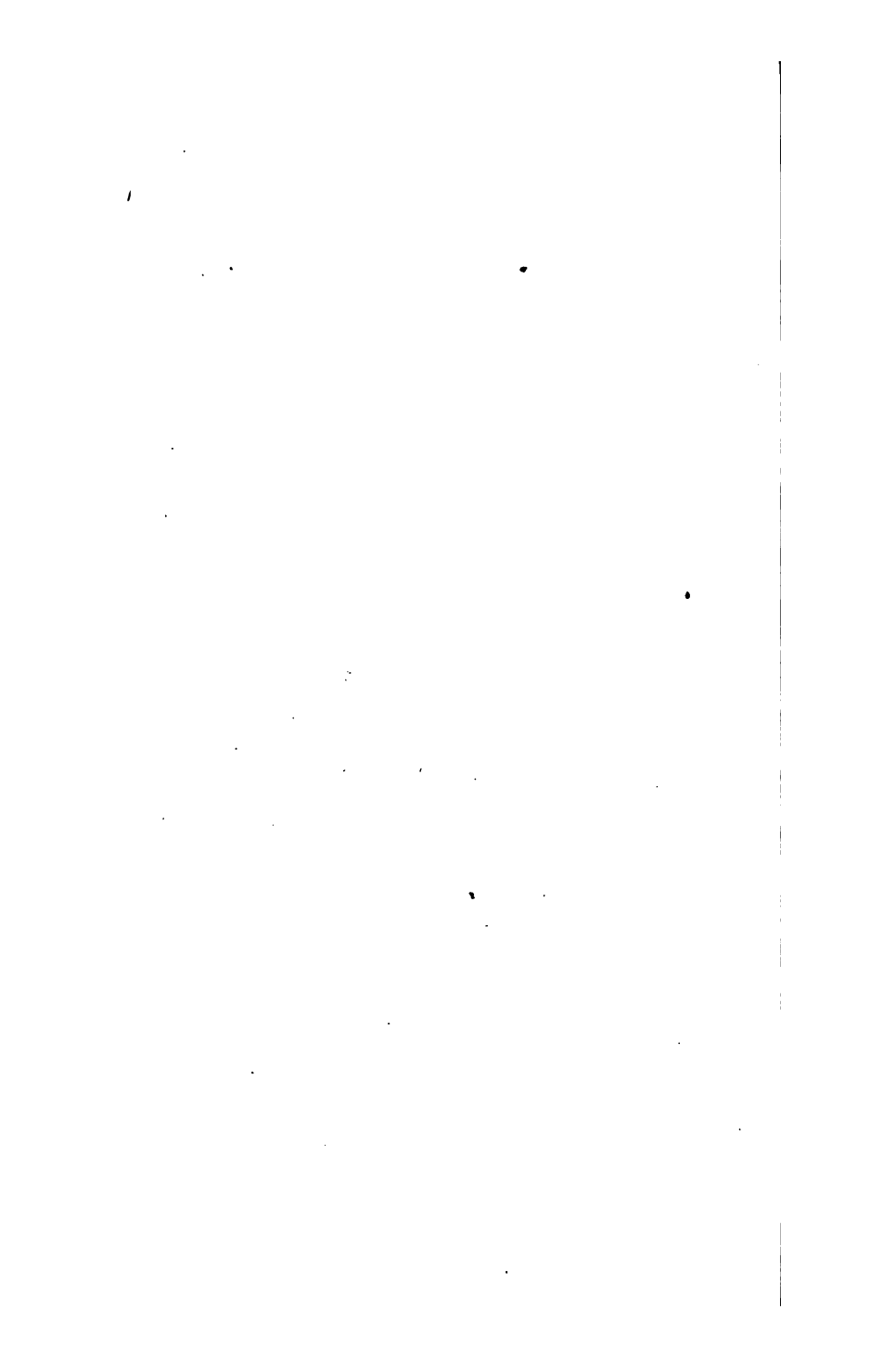
on company

by post, addressed to him at such office, shall be deemed *Service of*
 good service upon the said company; and all notices, *notices,*
 returns, and other documents required by this act to be
 given to or laid before the lords of the said committee, *to Board of*
 shall be delivered at or sent by post addressed to the office *Trade.*
 of the lords of the said committee.

24. And be it enacted, That all penalties under this *Recovery*
 act for the application of which no special provision is *of penalties.*
 made shall be recovered in the name and for the use of
 her Majesty, and may be recovered in any of her Majesty's
 courts of record, or in the court of session or in any of the
 sheriff courts in Scotland.

25. And be it enacted, That where the word "railway" *Interpreta-*
 is used in this act it shall be construed to extend to rail- *tion of*
 ways constructed under the powers of any act of parlia- *words.*
 ment; and when the words "passenger railway" are used
 in this act, they shall be construed to extend to railways *"Railway."*
 constructed under the powers of any act of parliament *"Passenger*
 upon which one-third or more of the gross annual revenue *Railway."*
 is derived from the conveyance of passengers by steam or
 other mechanical power; and whenever the word "com- *"Company"*
 pany" is used in this act it shall be construed to extend to
 include the proprietors for the time being of any such
 railway; and that where a different sense is not expressly
 declared, or does not appear by the context, every word
 importing the singular number or the masculine gender
 shall be taken to include females as well as males, and
 several persons and things as well as one person or
 thing.

26. And be it enacted, That this act may be amended *Act may be*
 or repealed by any act to be passed in this session of *amended or*
 parliament. *repealed.*



COMPANIES CLAUSES, 1845.

8 VICT. cap. 16. An Act for consolidating in One Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a Public Nature. [8th May 1845.]

WHEREAS it is expedient to comprise in one general act sundry provisions relating to the constitution and management of joint stock companies, usually introduced into acts of parliament authorizing the execution of undertakings of a public nature by such companies, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves.

Preambl
See also 2
& 27 Vict.
c. 118.

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall apply to every joint stock company which shall by any act which shall hereafter be passed be incorporated for the purpose of carrying on any undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the company which shall be incorporated by such act, and to the undertaking for carrying on

Act to apply to all companies incorporated by acts hereafter to be passed.

8 VICT.
CAP. 18.

which such company shall be incorporated, so far as the same shall be applicable thereto respectively; and such clauses and provisions, as well as the clauses and provisions of every other act which shall be incorporated with such act, shall, save as aforesaid, form part of such act, and be construed together therewith as forming one act.

INTERPRETA-
TIONS IN
THIS ACT.

2. And with respect to the construction of this act, and of other acts to be incorporated therewith, be it enacted as follows:—

"The special
act."

The expression "the special act" used in this act shall be construed to mean any act which shall be hereafter passed incorporating a joint stock company for the purpose of carrying on any undertaking, and with which this act shall be so incorporated as aforesaid; and the word "prescribed" used in this act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act; and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special act" had been used; and the expression "the undertaking" shall mean the undertaking or works, of whatever nature, which shall by the special act be authorized to be executed.

"Prescribed."

"The under-
taking."

INTERPRETA-
TIONS IN
THIS AND
THE SPECIAL
ACT.

3. The following words and expressions both in this and the special act shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction; (that is to say,)

Number.

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number:

Gender.

Words importing the masculine gender only shall include females:

"Lands."

The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure:

"Lease."

The word "lease" shall include an agreement for a lease:

"Month."

The word "month" shall mean calendar month:

"Superior
Courts."

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require:

"Oath."

The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons, exempted by law from the necessity of taking an oath:

"County."

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together in petty sessions:

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"Justice."

"Two justices."

The expression "the company" shall mean the company constituted by the special act:

"The company."

The expression "the directors" shall mean the directors of the company, and shall include all persons having the direction of the undertaking, whether under the name of directors, managers, committee of management, or under any other name:

"Directors."

The word "shareholder" shall mean shareholder, proprietor, or member of the company; and in referring to any such shareholder, expressions properly applicable to a person shall be held to apply to a corporation: and

"Shareholders."

The expression "the secretary" shall mean the secretary of the company, and shall include the word "clerk."

"Secretary."

4. And be it enacted, That in citing this act in other acts of parliament and in legal instruments it shall be sufficient to use the expression "The Companies' Clauses Consolidation Act, 1845."

Short title of the act.

5. And whereas it may be convenient in some cases to incorporate with acts of parliament hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That for the purpose of making any such incorporation it shall be sufficient in any such act to enact that the clauses and provisions of this act, with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act in the words introductory to the enactment with respect to such matter), shall be incorporated with such act; and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

Form in which portions of this act may be incorporated with other acts.

And with respect to the distribution of the capital of the company into shares, be it enacted as follows:

DISTRIBUTION OF CAPITAL.

6. The capital of the company shall be divided into shares of the prescribed number and amount; and such shares shall be numbered in arithmetical progression,

Capital to be divided into shares.

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Shares to be
personal
estate.
Share-
holders.

beginning with number one; and every such share shall be distinguished by its appropriate number.

7. All shares in the undertaking shall be personal estate, and transmissible as such, and shall not be of the nature of real estate.

8. Every person who shall have subscribed the prescribed sum or upwards to the capital of the company, or shall otherwise have become entitled to a share in the company, and whose name shall have been entered on the register of shareholders hereinafter mentioned, shall be deemed a shareholder of the company.

Register of
sharehold-
ers.

9. The company shall keep a book, to be called the register of shareholders; and in such book shall be fairly and distinctly entered, from time to time, the names of the several corporations, and the names and additions of the several persons entitled to shares in the company, together with the number of shares to which such shareholders shall be respectively entitled, distinguishing each share by its number, and the amount of the subscriptions paid on such shares, and the surnames or corporate names of the said shareholders shall be placed in alphabetical order; and such book shall be authenticated by the common seal of the company being affixed thereto; and such authentication shall take place at the first ordinary meeting, or at the next subsequent meeting of the company, and so from time to time at each ordinary meeting of the company.

Sharehold-
ers' address
book.

10. In addition to the said register of shareholders, the company shall provide a book, to be called the "shareholders' address-book," in which the secretary shall from time to time enter, in alphabetical order, the corporate names and places of business of the several shareholders of the company, being corporations, and the surnames of the several other shareholders with their respective christian names, places of abode, and descriptions, so far as the same shall be known to the company; and every shareholder, or if such shareholder be a corporation the clerk or agent of such corporation, may at all convenient times peruse such book gratis, and may require a copy thereof or of any part thereof; and for every hundred words so required to be copied, the company may demand a sum not exceeding sixpence.

Certificates
of shares to
be issued to
the share-
holders.

11. On demand of the holder of any share the company shall cause a certificate of the proprietorship of such share to be delivered to such shareholder; and such certificate shall have the common seal of the company affixed thereto; and such certificate shall specify the share in the undertaking to which such shareholder is entitled:

and the same may be according to the form in the schedule (A.) to this act annexed, or to the like effect; and for such certificate the company may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence.

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12. The said certificate shall be admitted in all courts as *prima facie* evidence of the title of such shareholder, his executors, administrators, successors, or assigns, to the share therein specified; nevertheless the want of such certificate shall not prevent the holder of any share from disposing thereof.

Certificate
to be evi-
dence.

13. If any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the directors, such directors may order the same to be cancelled, and thereupon another similar certificate shall be given to the party in whom the property of such certificate, and of the share therein mentioned, shall be at the time vested; or if such certificate be lost or destroyed, then, upon proof thereof to the satisfaction of the directors, a similar certificate shall be given to the party entitled to the certificate so lost or destroyed; and in either case a due entry of the substituted certificate shall be made by the secretary in the register of shareholders; and for every such certificate so given or exchanged the company may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence.

Certificate
to be re-
newed when
lost or de-
stroyed.

And with respect to the transfer or transmission of shares, be it enacted as follows:

TRANSFER
OF SHARES

14. Subject to the regulations herein or in the special act contained, every shareholder may sell and transfer all or any of his shares in the undertaking, or all or any part of his interest in the capital stock of the company, in case such shares shall, under the provision hereinafter contained, be consolidated into capital stock; and every such transfer shall be by deed duly stamped, in which the consideration shall be truly stated; and such deed may be according to the form in the schedule (B.) to this act annexed, or to the like effect.

Sharehold-
ers may
transfer
shares by
deed.

15. The said deed of transfer (when duly executed) shall be delivered to the secretary, and be kept by him; and the secretary shall enter a memorial thereof in a book to be called the "Register of Transfers," and shall endorse such entry on the deed of transfer, and shall, on demand, deliver a new certificate to the purchaser; and for every such entry, together with such endorsement and certificate, the company may demand any sum not exceeding

Memorials
of transfers
to be enter-
ed in regis-
ter of trans-
fers.

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CAP. 16.

Until regis-
tered, ven-
dor liable
for calls.
Purchaser
not entitled
to profits.

Transfer not
to be made
until calls
paid.

Closing of
transfer
books.

Notice.

Transmis-
sion of
shares by
other means
than trans-
fer to be
authenti-
cated by a
declaration.

Entry in
register of
share-
holders.

the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence; and on the request of the purchaser of any share an endorsement of such transfer shall be made on the certificate of such share, instead of a new certificate being granted; and such endorsement, being signed by the secretary, shall be considered in every respect the same as a new certificate; and until such transfer has been so delivered to the secretary as aforesaid the vendor of the share shall continue liable to the company for any calls that may be made upon such share, and the purchaser of the share shall not be entitled to receive any share of the profits of the undertaking, or to vote in respect of such share.

16. No shareholder shall be entitled to transfer any share, after any call shall have been made in respect thereof, until he shall have paid such call, nor until he shall have paid all calls for the time being due on every share held by him.

17. It shall be lawful for the directors to close the register of transfers for the prescribed period, or if no period be prescribed, then for a period not exceeding fourteen days previous to each ordinary meeting, and they may fix a day for the closing of the same, of which seven days' notice shall be given by advertisement in some newspaper as after mentioned; and any transfer made during the time when the transfer books are so closed shall, as between the company and the party claiming under the same, but not otherwise, be considered as made subsequently to such ordinary meeting.

18. If the interest in any share have become transmitted in consequence of the death or bankruptcy or insolvency of any shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this or the special act, such transmission shall be authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the directors shall require; and every such declaration shall state the manner in which and the party to whom such share shall have been so transmitted, and shall be made and signed by some credible person before a justice, or before a master or master extraordinary of the high court of chancery; and such declaration shall be left with the secretary, and thereupon he shall enter the name of the person entitled under such transmission in the register of shareholders; and for every such entry the company may demand any sum not exceeding the prescribed amount, and where no amount shall

be prescribed, then not exceeding five shillings; and until such transmission has been so authenticated no person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the undertaking, nor to vote in respect of any such share as the holder thereof.

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CAP. 16.

Until authenticated
not entitled to profits.

19. If such transmission be by virtue of the marriage of a female shareholder, the said declaration shall contain a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if such transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will or the letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the secretary; and upon such production in either of the cases aforesaid the secretary shall make an entry of the declaration in the said register of transfers.

Transmission by marriage, will, &c., to be proved by production of register or probate.

[As to shares in respect of money advanced on security of land, for construction of railways or canals, see 27 & 28 Vict. c. 114, ss. 84 to 89.]

20. The company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject; and the receipt of the party in whose name any such share shall stand in the books of the company, or if it stands in the names of more parties than one, the receipt of one of the parties named in the register of shareholders, shall from time to time be a sufficient discharge to the company for any dividend or other sum of money payable in respect of such share, notwithstanding any trusts to which such share may then be subject, and whether or not the company have had notice of such trusts; and the company shall not be bound to see to the application of the money paid upon such receipt.

Company not bound to regard trusts.

Receipt of party named in register of shareholders a sufficient discharge.

And with respect to the payment of subscriptions and the means of enforcing the payment of calls, be it enacted as follows:

PAYMENT OF
CALLS.

21. The several persons who have subscribed any money towards the undertaking, or their legal representatives, respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall from time to time be called for by the company, at such times and places as shall be appointed by the company; and with respect to the provisions herein or in the special act contained for enforcing the payment of calls, the word "shareholder" shall extend to and include the legal personal representatives of such shareholder.

Subscriptions to be paid when called for.

22. It shall be lawful for the company from time to

Power to make calls.

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Notice.	23. If, before or on the day appointed for payment, any shareholder do not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate allowed by law from the day appointed for the payment thereof to the time of the actual payment.
Interval.	24. It shall be lawful for the company, if they think fit, to receive from any of the shareholders willing to advance the same all or any part of the monies due upon their respective shares beyond the sums actually called for; and upon the principal monies so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the shareholder paying such sum in advance and the company shall agree upon.
Prescribed amount.	25. If at the time appointed by the company for the payment of any call any shareholder fail to pay the amount of such call, it shall be lawful for the company to sue such shareholder for the amount thereof, in any court of law or equity having competent jurisdiction, and to recover the same, with lawful interest, from the day on which such call was payable.
Interest to be paid on calls unpaid.	26. In any action or suit to be brought by the company against any shareholder to recover any money due for any call it shall not be necessary to set forth the special matter, but it shall be sufficient for the company to declare that the defendant is the holder of one share or more in the company (stating the number of shares), and is indebted to the company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more (stating the number and amount of each of such calls), whereby an action hath accrued to the company by virtue of this and the special act.
Interest may be allowed on payment of subscriptions before call.	
Payment of calls may be enforced by action.	
Declaration in action for calls.	

27. On the trial or hearing of such action or suit it shall be sufficient to prove that the defendant at the time of making such call was a holder of one share or more in the undertaking, and that such call was in fact made, and such notice thereof given as is directed by this or the special act; and it shall not be necessary to prove the appointment of the directors who made such call, nor any other matter whatsoever; and thereupon the company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear either that any such call exceeds the prescribed amount, or that due notice of such call was not given, or that the prescribed interval between two successive calls had not elapsed, or that calls amounting to more than the sum prescribed for the total amount of calls in one year had been made within that period.

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Matters to
be proved
in action for
calls.

28. The production of the register of shareholders shall be *prima facie* evidence of such defendant being a shareholder, and of the number and amount of his shares.

Register to
be evidence.

And with respect to the forfeiture of shares for non-payment of calls, be it enacted as follows:

FORFEITURE
OF SHARES.

29. If any shareholder fail to pay any call payable by him, together with the interest, if any, that shall have accrued thereon, the directors at any time after the expiration of two months from the day appointed for payment of such call, may declare the share in respect of which such call was payable forfeited, and that whether the company have sued for the amount of such call or not.

If calls un-
paid for two
months,
shares may
be declared
forfeited.

30. Before declaring any share forfeited, the directors shall cause notice of such intention to be left at or transmitted by the post to the usual or last place of abode of the person appearing by the register of shareholders to be the proprietor of such share; and if the holder of any such share be abroad, or if his usual or last place of abode be not known to the directors, by reason of its being imperfectly described in the shareholders' address book, or otherwise, or if the interest in any such share shall be known by the directors to have become transmitted otherwise than by transfer, as hereinbefore mentioned, but a declaration of such transmission shall not have been registered as aforesaid, and so the address of the parties to whom the same may have been transmitted, or may for the time being belong, shall not be known to the directors, the directors shall give public notice of such intention in the London or Dublin Gazette, according as the company's principal place of business shall be situate in England or Ireland, and also in some newspaper, as after mentioned; and the several notices aforesaid shall be given twenty-one

Notice of
forfeiture to
be given
before de-
claration
thereof.

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Declaration
of forfeiture
to be con-
firmed by a
general
meeting.

days at least before the directors shall make such declaration of forfeiture.

31. The said declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share until such declaration have been confirmed at some general meeting of the company to be held after the expiration of two months at the least from the day on which such notice of intention to make such declaration of forfeiture shall have been given; and it shall be lawful for the company to confirm such forfeiture at any such meeting, and by an order at such meeting, or at any subsequent general meeting, to direct the share so forfeited to be sold or otherwise disposed of.

Forfeited
shares may
be sold.

32. After such confirmation as aforesaid it shall be lawful for the directors to sell the forfeited share, either by public auction or private contract, and if there be more than one such forfeited share, then either separately or together, as to them shall seem fit; and any shareholder may purchase any forfeited share so sold.

Evidence as
to forfeiture
of shares.

33. A declaration in writing, by some credible person not interested in the matter, made before any justice, or before any master or master extraordinary of the high court of chancery, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such declaration, and the receipt of the treasurer of the company for the price of such share, shall constitute a good title to such share; and a certificate of proprietorship shall be delivered to such purchaser, and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase; and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Declaration
and receipt
a good title
to the pur-
chaser.

No more
shares to be
sold than
sufficient to
pay calls,
interest, and
expenses.

34. The company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited shares be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale

thereof, the surplus shall, on demand, be paid to the defaulter.

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CAP. 16.

35. If payment of such arrears of calls and interest and expenses be made before any share so forfeited and vested in the company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

On payment
of calls be-
fore sale,
shares to
revert.

And with respect to the remedies of creditors of the company against the shareholders, be it enacted as follows:

REMEDIES
AGAINST
SHAREHOLD-
ERS.

36. If any execution, either at law or in equity, shall have been issued against the property or effects of the company, and if there cannot be found sufficient whereon to levy such execution, then such execution may be issued against any of the shareholders to the extent of their shares respectively in the capital of the company not then paid up: provided always, that no such execution shall issue against any shareholder except upon an order of the court in which the action, suit, or other proceeding shall have been brought or instituted, made upon motion in open court after sufficient notice in writing to the persons sought to be charged; and upon such motion such court may order execution to issue accordingly; and for the purpose of ascertaining the names of the shareholders, and the amount of capital remaining to be paid upon their respective shares, it shall be lawful for any person entitled to any such execution, at all reasonable times, to inspect the "Register of Shareholders" without fee.

Execution
may be is-
sued to the
extent of
shares in
capital not
paid up.

Notice.

Inspection
of register
of share-
holders.

37. If by means of any such execution any shareholder shall have paid any sum of money beyond the amount then due from him in respect of calls, he shall forthwith be reimbursed such additional sum by the directors out of the funds of the company.

Reimburse-
ment of
sharehold-
ers.

And with respect to the borrowing of money by the company on mortgage or bond, be it enacted as follows:

BORROWING
OF MONEY.

38. If the company be authorized by the special act to borrow money on mortgage or bond, it shall be lawful for them, subject to the restrictions contained in the special act, to borrow on mortgage or bond such sums of money as shall, from time to time, by an order of a general meeting of the company, be authorized to be borrowed, not exceeding in the whole the sum prescribed by the special act, and for securing the repayment of the money so borrowed, with interest, to mortgage the undertaking, and the future calls on the shareholders, or to give bonds in manner hereinafter mentioned.

Company
may borrow
such sums
as shall be
authorized
by a general
meeting.

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If borrowed money be repaid, company may again borrow.

Evidence of authority for borrowing.

Certificate of justice.

Order of general meeting.

Mortgages and bonds to be by deed.

Form.

Mortgagees entitled to proportions of tolls, &c. without preference.

Mortgage not to preclude receipt of calls.

Obligees in bonds entitled to proportion

39. If, after having borrowed any part of the money so authorized to be borrowed on mortgage or bond, the company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of re-borrowing shall not be exercised without the authority of a general meeting of the company, unless the money be so re-borrowed in order to pay off any existing mortgage or bond.

40. Where by the special act the company shall be restricted from borrowing any money on mortgage or bond until a definite portion of their capital shall be subscribed or paid up, or where by this or the special act the authority of a general meeting is required for such borrowing, the certificate of a justice that such definite portion of the capital has been subscribed or paid up, and a copy of the order of a general meeting of the company authorizing the borrowing of any money, certified by one of the directors or by the secretary to be a true copy, shall be sufficient evidence of the fact of the capital required to be subscribed or paid up having been so subscribed or paid up, and of the order for borrowing money having been made; and upon production to any justice of the books of the company, and of such other evidence as he shall think sufficient, such justice shall grant the certificate aforesaid.

41. Every mortgage and bond for securing money borrowed by the company shall be by deed under the common seal of the company, duly stamped, and wherein the consideration shall be truly stated; and every such mortgage deed or bond may be according to the form in the schedule (C.) or (D.) to this act annexed, or to the like effect.

42. The respective mortgagees shall be entitled one with another to their respective proportions of the tolls, sums, and premises comprised in such mortgages, and of the future calls payable by the shareholders, if comprised therein, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorized.

43. No such mortgage (although it should comprise future calls on the shareholders) shall, unless expressly so provided, preclude the company from receiving and applying to the purposes of the company any calls to be made by the company.

44. The respective obligees in such bonds shall, proportionally according to the amount of the monies secured thereby, be entitled to be paid, out of the tolls or other

property or effects of the company, the respective sums in such bonds mentioned, and thereby intended to be secured, without any preference one above another by reason of priority of date of any such bond, or of the meeting at which the same was authorized, or otherwise howsoever.

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of tolls, &c.,
without
preference.

45. A register of mortgages and bonds shall be kept by the secretary, and within fourteen days after the date of any such mortgage or bond an entry or memorial, specifying the number and date of such mortgage or bond, and the sums secured thereby, and the names of the parties thereto, with their proper additions, shall be made in such register; and such register may be perused at all reasonable times by any of the shareholders, or by any mortgagee or bond creditor of the company, or by any person interested in any such mortgage or bond, without fee or reward.

Register of
mortgages
and bonds
to be kept.

Inspection.

46. Any party entitled to any such mortgage or bond may from time to time transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the schedule (E.) to this act annexed, or to the like effect.

Transfers
of mort-
gages and
bonds to be
by deed.

Form.

47. Within thirty days after the date of every such transfer, if executed within the united kingdom, or otherwise within thirty days after the arrival thereof in the united kingdom, it shall be produced to the secretary, and thereupon the secretary shall cause an entry or memorial thereof to be made in the same manner as in the case of the original mortgage; and after such entry every such transfer shall entitle the transferee to the full benefit of the original mortgage or bond in all respects; and no party, having made such transfer, shall have power to make void, release, or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the company may demand a sum not exceeding the prescribed sum, or, where no sum shall be prescribed, the sum of two shillings and sixpence; and until such entry the company shall not be in any manner responsible to the transferee in respect of such mortgage.

Transfers of
mortgages
and bonds
to be regis-
tered.

Fee.

48. The interest of the money borrowed upon any such mortgage or bond shall be paid at the periods appointed in such mortgage or bond, and if no period be appointed, half-yearly, to the several parties entitled thereto, and in preference to any dividends payable to the shareholders of the company.

Payment of
interest on
monies bor-
rowed.

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Transfers of
interest.
Money bor-
rowed to be
repaid at
time fixed.

Place of pay-
ment.

If no time
fixed, money
borrowed to
be repaid at
six months'
notice.

Notice by
company.

Notice to
company.

Interest to
cease on
expiration
of notice to
pay off
mortgage or
bond.

Arrears of
interest,
when to be
enforced by
appoint-
ment of a
receiver.

49. The interest on any such mortgage or bond shall not be transferable, except by deed duly stamped.

50. The company may, if they think proper, fix a period for the repayment of the principal money so borrowed with the interest thereof, and in such case the company shall cause such period to be inserted in the mortgage deed or bond; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to such mortgage or bond; and if no other place of payment be inserted in such mortgage deed or bond, such principal and interest shall be payable at the principal office or place of business of the company.

51. If no time be fixed in the mortgage deed or bond for the repayment of the money so borrowed, the party entitled to the mortgage or bond may, at the expiration or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the company may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or bond creditor shall be delivered to the secretary or left at the principal office of the company, and if given by the company shall be given either personally to such mortgagee or bond creditor or left at his residence, or if such mortgagee or bond creditor be unknown to the directors, or cannot be found after diligent enquiry, such notice shall be given by advertisement in the London or Dublin Gazette, according as the principal office of the company shall be in England or Ireland, and in some newspaper as after mentioned.

52. If the company shall have given notice of their intention to pay off any such mortgage or bond at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable on such mortgage or bond, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the company shall fail to pay the principal and interest due at the expiration of such notice on such mortgage or bond.

53. Where by the special act the mortgagees of the company shall be empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due on such mortgages, by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage has become payable, and, after demand thereof in writing, the same be not paid,

the mortgagee may, without prejudice to his right to sue for the interest so in arrear in any of the superior courts of law or equity, require the appointment of a receiver, by an application to be made as hereinafter provided; and if within six months after the principal money owing upon any such mortgage has become payable, and after demand thereof in writing, the same be not paid, the mortgagee without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts of law or equity, may, if his debt amount to the prescribed sum alone, or if his debt does not amount to the prescribed sum, he may, in conjunction with other mortgagees whose debts, being so in arrear, after demand as aforesaid, shall, together with his, amount to the prescribed sum, require the appointment of a receiver, by an application to be made as hereinafter provided.

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CAP. 16.

Arrears of
principal
and inter-
est.

Joint mort-
gages.

54. Every application for a receiver in the cases aforesaid shall be made to two justices, and on any such application it shall be lawful for such justices, by order in writing, after hearing the parties, to appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the tolls or sums aforesaid, be fully paid; and upon such appointment being made, all such tolls and sums of money as aforesaid shall be paid to and received by the person so to be appointed; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed; and after such interest and costs, or such principal, interest, and costs, have been so received, the power of such receiver shall cease.

Receiver to
be appoint-
ed by two
justices.

Tolls, &c.
to be paid to
receiver.

When
power of
receiver to
cease.

55. At all seasonable times the books of account of the company shall be open to the inspection of the respective mortgagees and bond creditors thereof, with liberty to take extracts therefrom without fee or reward.

Access to
books by
mortgagees.

And with respect to the conversion of the borrowed money into capital, be it enacted as follows:—

CONVERSION
OF BORROW-
ED MONEY
INTO CAPITAL.

56. It shall be lawful for the company, if they think fit, unless it be otherwise provided by the special act, to raise the additional sum so authorized to be borrowed, or any part thereof, by creating new shares of the company, instead of borrowing the same, or, having borrowed the same, to continue at interest only a part of such additional sum, and to raise part thereof by creating new shares;

Sum autho-
rized to be
borrowed
may be
raised by
creating
new shares

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CAP. 18.

New shares
to be sub-
ject to same
provisions
as original
shares.

but no such augmentation of capital as aforesaid shall take place without the previous authority of a general meeting of the company.

57. The capital so to be raised by the creation of new shares shall be considered as part of the general capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on nonpayment of calls, or otherwise as if it had been part of the original capital, except as to the times of making calls for such additional capital, and the amount of such calls, which respectively it shall be lawful for the company from time to time to fix as they shall think fit.

If old shares
at premium,
new shares
to be offered
to the share-
holders.

58. If at the time of any such augmentation of capital taking place by the creation of new shares the then existing shares be at a premium, or of greater actual value than the nominal value thereof, then, unless it be otherwise provided by the special act, the sum so to be raised shall be divided into shares of such amount as will conveniently allow the same to be apportioned among the then shareholders in proportion to the existing shares held by them respectively; and such new shares shall be offered to the then shareholders in the proportion aforesaid; and such offer shall be made by letter under the hand of the secretary given to or sent by post, addressed to each shareholder according to his address in the shareholders' address-book, or left at his usual or last place of abode.

Shares to
vest in the
parties ac-
cepting;
otherwise
to be dis-
posed of by
the direc-
tors.

59. The said new shares shall vest in and belong to the shareholders who shall accept the same, and pay the value thereof to the company at the time and by the instalments which shall be fixed by the company; and if any shareholder fail for one month after such offer of new shares to accept the same, and pay the instalments called for in respect thereof, it shall be lawful for the company to dispose of such shares in such manner as they shall deem most for the advantage of the company.

If not at a
premium, to
be issued as
company
think fit.

60. If at the time of such augmentation of capital taking place the existing shares be not at a premium, then such new shares may be of such amount, and may be issued in such manner, and on such terms, as the company shall think fit.

CONSOLIDA-
TION OF
SHARES.

Company
may consoli-
date
shares into
stock.

And with respect to the consolidation of the shares into stock, be it enacted as follows:

61. It shall be lawful for the company from time to time, with the consent of three-fifths of the votes of the shareholders present in person, or by proxy, at any general meeting of the company, when due notice for that purpose shall have been given, to convert or consolidate all or any part of the shares then existing in the capital of the

company, and in respect whereof the whole money subscribed shall have been paid up, into a general capital stock, to be divided amongst the shareholders according to their respective interests therein.

S VICT.
CAP. 16.

62. After such conversion or consolidation shall have taken place, all the provisions contained in this or the special act which require or imply that the capital of the company shall be divided into shares of any fixed amount, and distinguished by numbers, shall, as to so much of the capital as shall have been so converted or consolidated into stock, cease and be of no effect, and the several holders of such stock may thenceforth transfer their respective interests therein, or any parts of such interests, in the same manner and subject to the same regulations and provisions as or according to which any shares in the capital of the company might be transferred under the provisions of this or the special act; and the company shall cause an entry to be made in some book to be kept for that purpose, of every such transfer; and for every such entry they may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, a sum not exceeding two shillings and sixpence.

After consolidation, provisions requiring capital to be divided into shares to cease.

Transfer of stock.

Register of transfer.

Fee.

63. The company shall from time to time cause the names of the several parties who may be interested in any such stock as aforesaid, with the amount of the interest therein possessed by them respectively, to be entered in a book to be kept for the purpose, and to be called "The Register of Holders of Consolidated Stock;" and such book shall be accessible at all seasonable times to the several holders of shares or stock in the undertaking.

Register of holders of consolidated stock to be kept.

Inspection.

64. The several holders of such stock shall be entitled to participate in the dividends and profits of the company, according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively the same privileges and advantages, for the purpose of voting at meetings of the company, qualification for the office of directors, and for other purposes, as would have been conferred by shares of equal amount in the capital of the company, but so that none of such privileges or advantages, except the participation in the dividends and profits of the company shall be conferred by any aliquot part of such amount of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages respectively.

Proprietors of stock entitled to dividends,

and same privileges as conferred by shares of equal amount.

65. And be it enacted, That all the money raised by the company, whether by subscriptions of the shareholders, or by loan or otherwise, shall be applied, firstly, in paying the costs and expenses incurred in obtaining

APPLICA-
TION OF
CAPITAL.

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CAP. 18.

**GENERAL
MEETINGS.**

Ordinary
meetings to
be held half-
yearly.

Place of
meeting.

Business at
ordinary
meetings.

Extraordi-
nary meet-
ings.

Notice of
business at.

Sharehold-
ers may re-
quire direc-
tors to call
extraordi-
nary meet-
ings.

Requisition
to state ob-
ject of meet-
ing.

On failure
of directors,
shareholders
may call
meeting.

the special act, and all expenses incident thereto, and, secondly, in carrying the purposes of the company into execution.

And with respect to the general meetings of the company, and the exercise of the right of voting by the shareholders, be it enacted as follows :

66. The first general meeting of the shareholders of the company shall be held within the prescribed time, or if no time be prescribed, within one month after the passing of the special act, and the future general meetings shall be held at the prescribed periods, and if no periods be prescribed, in the months of February and August in each year, or at such other stated periods as shall be appointed for that purpose by an order of a general meeting ; and the meetings so appointed to be held as aforesaid shall be called "ordinary meetings;" and all meetings, whether ordinary or extraordinary, shall be held in the prescribed place, if any, and if no place be prescribed, then at some place to be appointed by the directors.

67. No matters, except such as are appointed by this or the special act to be done at an ordinary meeting, shall be transacted at any such meeting, unless special notice of such matters have been given in the advertisement convening such meeting.

68. Every general meeting of the shareholders, other than an ordinary meeting, shall be called an "extraordinary meeting;" and such meetings may be convened by the directors at such times as they think fit.

69. No extraordinary meeting shall enter upon any business not set forth in the notice upon which it shall have been convened.

70. It shall be lawful for the prescribed number of shareholders, holding in the aggregate shares to the prescribed amount, or, where the number of shareholders or amount of shares shall not be prescribed, it shall be lawful for twenty or more shareholders holding in the aggregate not less than one-tenth of the capital of the company, by writing under their hands, at any time to require the directors to call an extraordinary meeting of the company; and such requisition shall fully express the object of the meeting required to be called, and shall be left at the office of the company, or given to at least three directors, or left at their last or usual places of abode; and forthwith upon the receipt of such requisition, the directors shall convene a meeting of the shareholders; and if for twenty-one days after such notice the directors fail to call such meeting, the prescribed number, or such other number as aforesaid, of shareholders, qualified as aforesaid, may call such meeting, by giving fourteen days' public notice thereof.

71. Fourteen days' public notice at the least of all meetings, whether ordinary or extraordinary, shall be given by advertisement, which shall specify the place, the day, and the hour of meeting; and every notice of an extraordinary meeting, or of an ordinary meeting, if any other business than the business hereby or by the special act appointed for ordinary meetings is to be done thereat, shall specify the purpose for which the meeting is called.

8 VICT.
CAP. 16.

Notice of
meetings to
be given by
advertisement.

72. In order to constitute a meeting (whether ordinary or extraordinary) there shall be present, either personally or by proxy, the prescribed quorum, and if no quorum be prescribed, then shareholders holding in the aggregate not less than one-twentieth of the capital of the company, and being in number not less than one for every five hundred pounds of such required proportion of capital, unless such number would be more than twenty, in which case twenty shareholders holding not less than one-twentieth of the capital of the company, shall be the quorum; and if within one hour from the time appointed for such meeting the said quorum be not present no business shall be transacted at the meeting, other than the declaring of a dividend, in case that shall be one of the objects of the meeting, but such meeting shall, except in the case of a meeting for the election of directors, hereinafter mentioned, be held to be adjourned "sine die."

Quorum for
a general
meeting.

If quorum
not present,
meeting to
be adjourned.

73. At every meeting of the company one or other of the following persons shall preside as chairman; that is to say, the chairman of the directors, or in his absence the deputy chairman (if any), or in the absence of the chairman and deputy chairman some one of the directors of the company to be chosen for that purpose by the meeting, or in the absence of the chairman and deputy chairman and of all the directors, any shareholder to be chosen for that purpose by a majority of the shareholders present at such meeting.

Chairman
at general
meetings.

74. The shareholders present at any such meeting shall proceed in the execution of the powers of the company with respect to the matters for which such meeting shall have been convened, and those only; and every such meeting may be adjourned from time to time, and from place to place; and no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Business at
meetings
and adjournments.

75. At all general meetings of the company every shareholder shall be entitled to vote according to the prescribed scale of voting, and where no scale shall be prescribed every shareholder shall have one vote for every share up to ten, and he shall have an additional vote for every five shares beyond the first ten shares held by him

Votes of
shareholders.

8 VICT.
CAP. 16.

up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares: provided always, that no shareholder shall be entitled to vote at any meeting unless he shall have paid all the calls then due upon the shares held by him.

Manner of
voting.

76. The votes may be given either personally or by proxies, being shareholders, authorized by writing according to the form in the schedule (F.) to this act annexed, or in a form to the like effect, under the hand of the shareholder nominating such proxy, or if such shareholder be a corporation, then under their common seal; and every proposition at any such meeting shall be determined by the majority of votes of the parties present, including proxies, the chairman of the meeting being entitled to vote, not only as a principal and proxy, but to have a casting vote if there be an equality of votes.

Regulations
as to prox-
ies.

77. No person shall be entitled to vote as a proxy unless the instrument appointing such proxy have been transmitted to the secretary of the company the prescribed period, or, if no period be prescribed, not less than forty-eight hours before the time appointed for holding the meeting at which such proxy is to be used.

Votes of
joint share-
holders.

78. If several persons be jointly entitled to a share, the person whose name stands first in the register of shareholders as one of the holders of such share shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof; and on all occasions the vote of such first-named shareholder, either in person or by proxy, shall be allowed as the vote in respect of such share, without proof of the concurrence of the other holders thereof.

Votes of lunatics and minors, &c.

79. If any shareholder be a lunatic or idiot, such lunatic or idiot may vote by his committee; and if any shareholder be a minor he may vote by his guardian or any one of his guardians; and every such vote may be given either in person or by proxy.

Proof of a
particular
majority of
votes only
required in
the event of
a poll being
demanded.

80. Whenever in this or the special act the consent of any particular majority of votes at any meeting of the company is required in order to authorize any proceeding of the company, such particular majority shall only be required to be proved in the event of a poll being demanded at such meeting; and if such poll be not demanded, then a declaration by the chairman that the resolution authorizing such proceeding has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient authority for such proceeding, without proof of the number or proportion of votes recorded in favour of or against the same.

And with respect to the appointment and rotation of directors, be it enacted as follows:

81. The number of directors shall be the prescribed number.

82. Where the company shall be authorized by the special act to increase or to reduce the number of the directors it shall be lawful for the company, from time to time, in general meeting, after due notice for that purpose, to increase or reduce the number of the directors within the prescribed limits, if any, and to determine the order of rotation in which such reduced or increased number shall go out of office, and what number shall be a quorum at their meetings.

83. The directors appointed by the special act shall, unless thereby otherwise provided, continue in office until the first ordinary meeting to be held in the year next after that in which the special act shall have passed; and at such meeting the shareholders present, personally or by proxy, may either continue in office the directors appointed by the special act, or any number of them, or may elect a new body of directors, or directors to supply the places of those not continued in office, the directors appointed by the special act being eligible as members of such new body, and at the first ordinary meeting to be held every year thereafter the shareholders present, personally or by proxy, shall elect persons to supply the places of the directors then retiring from office, agreeably to the provisions hereinafter contained; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead, as hereinafter mentioned.

84. If at any meeting at which an election of directors ought to take place the prescribed quorum shall not be present within one hour from the time appointed for the meeting no election of directors shall be made, but such meeting shall stand adjourned till the following day at the same time and place; and if at the meeting so adjourned the prescribed quorum be not present within one hour from the time appointed for the meeting, the existing directors shall continue to act and retain their powers until new directors be appointed at the first ordinary meeting of the following year.

85. No person shall be capable of being a director unless he be a shareholder, nor unless he be possessed of the prescribed number, if any, of shares; and no person holding an office or place of trust or profit under the company, or interested in any contract with the company, shall be capable of being a director; and no director shall be capable

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CAP. 16.

APPOINTMENT OF
DIRECTORS.

Company in general meeting may vary the number of directors.

Directors appointed by special act to continue in office for one year.

Election of new directors.

Existing directors continued on failure of meeting for election of directors.

Qualification of directors.

8 VICT.
CAP. 16.

Cases in
which office
of director
shall become
vacant.

Shareholder
of an incor-
porated joint
stock com-
pany not dis-
qualified.

Rotation of
directors.

of accepting any other office or place of trust or profit under the company, or of being interested in any contract with the company, during the time he shall be a director.

86. If any of the directors at any time subsequently to his election accept or continue to hold any other office or place of trust or profit under the company, or be either directly or indirectly concerned in any contract with the company, or participate in any manner in the profits of any work to be done for the company, or if such director at any time cease to be a holder of the prescribed number of shares in the company, then in any of the cases aforesaid the office of such director shall become vacant, and thenceforth he shall cease from voting or acting as a director.

87. Provided always, that no person, being a shareholder or member of any incorporated joint stock company, shall be disqualified or prevented from acting as a director by reason of any contract entered into between such joint stock company and the company incorporated by the special act; but no such director, being a shareholder or member of such joint stock company, shall vote on any question as to any contract with such joint stock company.

88. The directors appointed by the special act, and continued in office as aforesaid, or the directors elected to supply the places of those retiring as aforesaid, shall, subject to the provision hereinbefore contained for increasing or reducing the number of directors, retire from office at the times and in the proportions following, the individuals to retire being in each instance determined by ballot among the directors, unless they shall otherwise agree; (that is to say,)

At the end of the first year after the first election of directors the prescribed number, and if no number be prescribed one-third of such directors, to be determined by ballot among themselves, unless they shall otherwise agree, shall go out of office:

At the end of the second year the prescribed number, and if no number be prescribed one-half of the remaining number of such directors, to be determined in like manner, shall go out of office:

At the end of the third year the prescribed number, and if no number be prescribed the remainder of such directors, shall go out of office:

And in each instance the places of the retiring directors shall be supplied by an equal number of qualified shareholders; and at the first ordinary meeting in every subsequent year the prescribed number, and if no number be prescribed one-third of the directors, being those who have been longest in office, shall go out of office, and their places shall be supplied in like manner; nevertheless every

director so retiring from office may be re-elected immediately or at any future time, and after such re-election shall, with reference to the going out by rotation, be considered as a new director: provided always, that if the prescribed number of directors be some number not divisible by three, and the number of directors to retire be not prescribed, the directors shall in each case determine what number of directors, as nearly one-third as may be, shall go out of office, so that the whole number shall go out of office in three years.

8 VIOT.
CAP. 16.

89. If any director die, or resign, or become disqualified or incompetent to act as a director, or cease to be a director by any other cause than that of going out of office by rotation as aforesaid, the remaining directors, if they think proper so to do, may elect in his place some other shareholder, duly qualified, to be a director; and the shareholder so elected to fill up any such vacancy shall continue in office as a director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

Directors
may supply
occasional
vacancies in
their body.

And with respect to the powers of the directors, and the powers of the company to be exercised only in general meeting, be it enacted as follows:

POWERS OF
DIRECTORS.

90. The directors shall have the management and superintendence of the affairs of the company, and they may lawfully exercise all the powers of the company, except as to such matters as are directed by this or the special act to be transacted by a general meeting of the company, but all the powers so to be exercised shall be exercised in accordance with and subject to the provisions of this and the special act; and the exercise of all such powers shall be subject also to the control and regulation of any general meeting specially convened for the purpose, but not so as to render invalid any act done by the directors prior to any resolution passed by such general meeting.

Powers of
the company
to be exer-
cised by the
directors.

91. Except as otherwise provided by the special act, the following powers of the company, (that is to say,) the choice and removal of the directors, except as hereinbefore mentioned, and the increasing or reducing of their number where authorized by the special act, the choice of auditors, the determination as to the remuneration of the directors, auditors, treasurer, and secretary, the determination as to the amount of money to be borrowed on mortgage, the determination as to the augmentation of capital, and the declaration of dividends, shall be exercised only at a general meeting of the company.

Powers of
the company
to be exer-
cised only at
a general
meeting.

And with respect to the proceedings and liabilities of the directors, be it enacted as follows:

PROCEED-
INGS OF
DIRECTORS.

92. The directors shall hold meetings at such times as

8 VICT.
CAP. 10.

Meetings of
directors,
to be called
by the se-
cretary.

Quorum.

Votes.

Directors to
elect per-
manent
chairman.

Deputy
chairman.

Occasional
chairman of
directors.

Committees
of directors.

Powers of
committees.

Meetings of
committees.

Quorum.

they shall appoint for the purpose, and they may meet and adjourn as they think proper, from time to time, and from place to place; and at any time any two of the directors may require the secretary to call a meeting of the directors, and in order to constitute a meeting of directors there shall be present at the least the prescribed quorum, and when no quorum shall be prescribed there shall be present at least one-third of the directors; and all questions at any such meeting shall be determined by the majority of votes of the directors present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as one of the directors.

93. At the first meeting of directors held after the passing of the special act, and at the first meeting of the directors held after each annual appointment of directors, the directors present at such meeting shall choose one of the directors to act as chairman of the directors for the year following such choice, and shall also, if they think fit, choose another director to act as deputy chairman for the same period; and if the chairman or deputy chairman die or resign, or cease to be a director, or otherwise become disqualified to act, the directors present at the meeting next after the occurrence of such vacancy shall choose some other of the directors to fill such vacancy; and every such chairman or deputy chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such death, resignation, removal, or disqualification had not happened.

94. If at any meeting of the directors neither the chairman nor deputy chairman be present the directors present shall choose some one of their number to be chairman of such meeting.

95. It shall be lawful for the directors to appoint one or more committees, consisting of such number of directors as they think fit, within the prescribed limits, if any, and they may grant to such committees respectively power on behalf of the company to do any acts relating to the affairs of the company which the directors could lawfully do, and which they shall from time to time think proper to intrust to them.

96. The said committees may meet from time to time, and may adjourn from place to place, as they think proper, for carrying into effect the purposes of their appointment; and no such committee shall exercise the powers intrusted to them except at a meeting at which there shall be present the prescribed quorum, or if no quorum be prescribed then a quorum to be fixed for that purpose by the general body of directors; and at all meetings of the committees

one of the members present shall be appointed chairman; and all questions at any meeting of the committee shall be determined by a majority of votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

8 VICT.
CAP. 16.
Chairman.
Votes.

97. The power which may be granted to any such committee to make contracts, as well as the power of the directors to make contracts on behalf of the company, may lawfully be exercised as follows; (that is to say,)

Power to make contracts.

With respect to any contract which, if made between private persons, would be by law required to be in writing, and under seal, such committee or the directors may make such contract on behalf of the company in writing, and under the common seal of the company, and in the same manner may vary or discharge the same.

Contracts in writing and under seal.

With respect to any contract which, if made between private persons, would be by law required to be in writing, and signed by the parties to be charged therewith, then such committee or the directors may make such contract on behalf of the company in writing, signed by such committee or any two of them, or any two of the directors, and in the same manner may vary or discharge the same:

Contracts in writing signed by two directors.

With respect to any contract which, if made between private persons, would by law be valid although made by parol only, and not reduced into writing, such committee or the directors may make such contract on behalf of the company by parol only, without writing, and in the same manner may vary or discharge the same:

Contracts by parol only, without writing.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the company and their successors, and all other parties thereto, their heirs, executors, or administrators, as the case may be; and on any default in the execution of any such contract, either by the company or any other party thereto, such actions or suits may be brought, either by or against the company, as might be brought had the same contracts been made between private persons only.

Contracts to be binding on company and all other parties.

98. The directors shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by the directors, and of the orders and proceedings of all meetings of the company, and of the directors and committees of directors, to be duly entered in books, to be from time to time provided for the purpose, which shall be kept under the superintendence of the

Proceedings to be entered in books,

8 VICT.
CAP. 16.

to be signed
by chairman
and to be
evidence.

directors; and every such entry shall be signed by the chairman of such meeting; and such entry, so signed, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being shareholders or directors or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed, until the contrary be proved.

Acts of di-
rectors to be
valid, not-
withstand-
ing defects
in their ap-
pointment.

99. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding it may be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Directors
not to be
personally
liable.

100. No director, by being party to or executing in his capacity of director any contract or other instrument on behalf of the company, or otherwise lawfully executing any of the powers given to the directors, shall be subject to be sued or prosecuted, either individually or collectively, by any person whomsoever; and the bodies or goods or lands of the directors shall not be liable to execution of any legal process by reason of any contract or other instrument so entered into, signed, or executed by them, or by reason of any other lawful act done by them in the execution of any of their powers as directors; and the directors, their heirs, executors, and administrators, shall be indemnified out of the capital of the company for all payments made or liability incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them; and the directors for the time being of the company may apply the existing funds and capital of the company for the purposes of such indemnity, and may, if necessary for that purpose, make calls of the capital remaining unpaid, if any.

Directors to
be indemni-
fied for all
payments
made and
liabilities
incurred.

AUDITORS.

Election of
auditors.

And with respect to the appointment and duties of auditors, be it enacted as follows:

101. Except where by the special act auditors shall be directed to be appointed otherwise than by the company, the company shall, at the first ordinary meeting after the passing of the special act, elect the prescribed number of auditors, and if no number is prescribed two auditors, in like manner as is provided for the election of directors; and at the first ordinary meeting of the company in each

year thereafter the company shall in like manner elect an auditor to supply the place of the auditor then retiring from office, according to the provision hereinafter contained; and every auditor elected as hereinbefore provided, being neither removed nor disqualified, nor having resigned, shall continue to be an auditor until another be elected in his stead.

8 VICT.
CAP. 16.

102. Where no other qualification shall be prescribed by the special act, every auditor shall have at least one share in the undertaking; and he shall not hold any office in the company, nor be in any other manner interested in its concerns, except as a shareholder. Qualification of auditors.

103. One of such auditors (to be determined in the first instance by ballot between themselves, unless they shall otherwise agree, and afterwards by seniority) shall go out of office at the first ordinary meeting in each year; but the auditor so going out shall be immediately re-eligible, and after any such re-election shall, with respect to the going out of office by rotation, be deemed a new auditor. Rotation of auditors.
Eligible for re-election.

104. If any vacancy take place among the auditors in the course of the current year, then at any general meeting of the company the vacancy may, if the company think fit, be supplied by election of the shareholders. Vacancies in office of auditor.

105. The provision of this act respecting the failure of an ordinary meeting at which directors ought to be chosen shall apply, "mutatis mutandis," to any ordinary meeting at which an auditor ought to be appointed. Failure of meeting to elect auditor.

106. The directors shall deliver to such auditors the half-yearly or other periodical accounts and balance sheet, fourteen days at the least before the ensuing ordinary meeting at which the same are required to be produced to the shareholders as hereinafter provided. Directors to deliver balance sheet, &c., to auditors.

107. It shall be the duty of such auditors to receive from the directors the half-yearly or other periodical accounts and balance sheet required to be presented to the shareholders, and to examine the same. Auditors to examine accounts.

108. It shall be lawful for the auditors to employ such accountants and other persons as they may think proper, at the expense of the company, and they shall either make a special report on the said accounts, or simply confirm the same; and such report or confirmation shall be read, together with the report of the directors, at the ordinary meeting. Auditors may employ accountants, &c.
Confirmation of accounts.

And with respect to the accountability of the officers of the company, be it enacted as follows:—

ACCOUNTABILITY OF OFFICERS.

109. Before any person intrusted with the custody or control of monies, whether treasurer, collector, or other officer of the company, shall enter upon his office, the

Security.

8 VICT.
CAP. 16.

Officers to
deliver ac-
counts on
demand,

with vouch-
ers and re-
ceipts and
pay balance

Summary
remedy
against offi-
cers failing
to account,

by summons
before two
justices.

who may
order pay-
ment.

Officers re-
fusing to
deliver up
documents
&c., to be
imprisoned.

directors shall take sufficient security from him for the faithful execution of his office.

110. Every officer employed by the company shall from time to time, when required by the directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all monies received by him on behalf of the company; and such account shall state how, and to whom, and for what purpose such monies shall have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the directors, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts.

111. If any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for three days after being thereunto required he fail to deliver up to the directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things, in his possession or power, relating to the execution of this or the special act, or any act incorporated therewith, or belonging to the company, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before two or more justices at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such officer, or in his absence upon proof that such summons was personally served upon him, or left at his last known place of abode, such justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer or upon evidence, or upon inspection of the account, that any monies of the company are in the hands of such officer, or owing by him to the company, such justices may order such officer to pay the same; and if he fail to pay the amount it shall be lawful for such justices to grant a warrant to levy the same by distress, or, in default thereof, to commit the offender to gaol, there to remain without bail for a period not exceeding three months, unless the same be sooner paid.

112. If any such officer refuse to make out such account in writing, or to produce and deliver to the justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things, in his possession or power, belonging to the company, such justices may lawfully commit such offender

to gaol, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power, relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters, and things, if any, in his possession or power, belonging to the company.

8 VICT.
CAP. 16.

113. Provided always, that if any director or other person acting on behalf of the company shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for the bringing such officer before such two justices as aforesaid; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours, without bringing him before some justice; and it shall be lawful for the justice before whom such officer may be brought either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before two justices, at a time and place to be named in such order, unless such officer give bail to the satisfaction of such justice for his appearance before such justices to answer the complaint of the company.

If officer about to abscond, a warrant may be issued in the first instance.

114. No such proceeding against or dealing with any such officer as aforesaid shall deprive the company of any remedy which they might otherwise have against such officer, or any surety of such officer.

Sureties not to be discharged.

And with respect to the keeping of accounts, and the right of inspection thereof by the shareholders, be it enacted as follows:

ACCOUNTS.

115. The directors shall cause full and true accounts to be kept of all sums of money received or expended on account of the company by the directors and all persons employed by or under them, and of the matters and things for which such sums of money shall have been received or disbursed and paid.

Accounts to be kept of all money received or expended.

116. The books of the company shall be balanced at the prescribed periods, and if no periods be prescribed, fourteen days at least before each ordinary meeting; and forthwith on the books being so balanced an exact balance sheet shall be made up, which shall exhibit a true statement of the capital stock, credits, and property of every description belonging to the company, and the debts due by the company at the date of making such balance sheet, and a distinct view of the profit or loss which shall have arisen on the transactions of the company in the course of the preceding half year: and previously to each ordinary

Books to be balanced and balance sheet made up.

8 VICT.
CAP. 16.

meeting such balance sheet shall be examined by the directors, or any three of their number, and shall be signed by the chairman or deputy chairman of the directors.

Books and balance sheet to be open for the inspection of shareholders at stated times.

117. The books so balanced, together with such balance sheet as aforesaid, shall for the prescribed periods, and if no periods be prescribed for fourteen days previous to each ordinary meeting, and for one month thereafter, be open for the inspection of the shareholders at the principal office or place of business of the company; but the shareholder shall not be entitled at any time, except during the periods aforesaid, to demand the inspection of such books, unless in virtue of a written order signed by three of the directors.

Balance sheet to be produced at meeting.

118. The directors shall produce to the shareholders assembled at such ordinary meeting the said balance sheet, applicable to the period immediately preceding such meeting, together with the report of the auditors thereon, as hereinbefore provided.

Directors to appoint book-keeper, who shall allow inspection of accounts at appointed times.

119. The directors shall appoint a book-keeper to enter the accounts aforesaid in books to be provided for the purpose; and every such book-keeper shall permit any shareholder to inspect such books, and to take copies or extracts therefrom, at any reasonable time during the prescribed periods, and if no periods be prescribed during one fortnight before and one month after every ordinary meeting; and if he fail to permit any such shareholder to inspect such books, or take copies or extracts therefrom, during the periods aforesaid, he shall forfeit to such shareholder for every such offence a sum not exceeding five pounds.

Penalty.

DIVIDENDS.

And with respect to the making of dividends, be it enacted as follows:

A scheme to be prepared showing the profits of the company.

120. Previously to every ordinary meeting at which a dividend is intended to be declared the directors shall cause a scheme to be prepared, showing the profits, if any, of the company for the period current since the preceding ordinary meeting at which a dividend was declared, and apportioning the same, or so much thereof as they may consider applicable to the purposes of dividend, among the shareholders, according to the shares held by them respectively, the amount paid thereon, and the periods during which the same may have been paid, and shall exhibit such scheme at such ordinary meeting, and at such meeting a dividend may be declared according to such scheme.

Dividend may be declared according to such scheme.

Dividend not to be made so as to reduce capital.

121. The company shall not make any dividend whereby their capital stock will be in any degree reduced: provided always, that the word "dividend" shall not be

construed to apply to a return of any portion of the capital stock, with the consent of all the mortgagees and bond creditors of the company, due notice being given for that purpose at an extraordinary meeting to be convened for that object.

8 VICT.
CAP. 18.

122. Before apportioning the profits to be divided among the shareholders the directors may, if they think fit, set aside thereout such sum as they may think proper to meet contingencies, or for enlarging, repairing, or improving the works connected with the undertaking, or any part thereof, and may divide the balance only among the shareholders.

Directors may set apart a fund for contingencies.

123. No dividend shall be paid in respect of any share until all calls then due in respect of that and every other share held by the person to whom such dividend may be payable shall have been paid.

Dividend not to be paid unless calls paid.

And with respect to the making of bye-laws, be it enacted as follows :

BYE LAWS.

124. It shall be lawful for the company from time to time to make such bye-laws as they think fit, for the purpose of regulating the conduct of the officers and servants of the company, and for providing for the due management of the affairs of the company in all respects whatsoever, and from time to time to alter or repeal any such bye-laws, and make others, provided such bye-laws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special act; and such bye-laws shall be reduced into writing, and shall have affixed thereto the common seal of the company; and a copy of such bye-laws shall be given to every officer and servant of the company affected thereby.

Company may make bye-laws for regulating the conduct of their officers and servants.

Copies to be given to officers, &c.

125. It shall be lawful for the company, by such bye-laws, to impose such reasonable penalties upon all persons, being officers or servants of the company, offending against such bye-laws, as the company think fit, not exceeding five pounds for any one offence.

Fines may be imposed for breach of such bye-laws.

126. All the bye-laws to be made by the company shall be so framed as to allow the justice before whom any penalty imposed thereby may be sought to be recovered to order a part only of such penalty to be paid, if such justice shall think fit.

Bye-laws to be so framed that penalties may be mitigated.

127. The production of a written or printed copy of the bye-laws of the company, having the common seal of the company affixed thereto, shall be sufficient evidence of such bye-laws in all cases of prosecution under the same.

Evidence of bye-laws.

And with respect to the settlement of disputes by arbitration, be it enacted as follows :

ARBITRATION.

8 VICT.
CAP. 16.

Where questions are to be determined by arbitration, arbitrators to be appointed within fourteen days after notice.

On failure of one party the other may appoint arbitrator to act on behalf of both.

If any arbitrator die or refuse to act, another may be nominated.

On failure, the remaining arbitrator may proceed.

Arbitrators to appoint umpire.

If umpire die or refuse to act, another to be appointed.

In the case of railways, Board of Trade may appoint an umpire, on neglect of the arbitrators.

128. When any dispute authorized or directed by this or the special act, or any act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

129. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable or refuse or for seven days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed ex parte; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, or disability as aforesaid.

130. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ; and if such umpire shall die, or refuse or for seven days neglect to act, they shall forthwith after such death, refusal, or neglect appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

131. If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, it shall be lawful for the Board of Trade, if they think fit, in any case in which a railway company shall be one party to the arbitration, on the application of either

party to such arbitration, to appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ shall be final.

8 VICT.
CAP. 16.

132. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrators may call for documents and administer oaths.

133. Except where by this or the special act, or any act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpires, as the case may be.

Costs to be in the discretion of the arbitrators.

134. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

Submission to arbitration.

And with respect to the giving of notices, be it enacted as follows:

NOTICES

135. Any summons or notice, or any writ, or other proceeding, at law or in equity, requiring to be served upon the company, may be served by the same being left at, or transmitted through the post directed to the principal office of the company, or one of their principal offices, where there shall be more than one, or being given personally to the secretary, or in case there be no secretary then by being given to any one director of the company.

Service of notices upon company.

136. Notices requiring to be served by the company upon the shareholders may, unless expressly required to be served personally, be served by the same being transmitted through the post directed according to the registered address or other known address of the shareholder, within such period as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the giving of such notice; and in proving such service it shall be sufficient to prove that such notice was properly directed, and that it was so put into the post-office.

Service of notices by company on shareholders.

137. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons shall be named first in the register of shareholders; and notice so given shall be sufficient notice to all the proprietors of such share.

Notices to joint proprietors of shares.

138. All notices required by this or the special act, or any act incorporated therewith, to be given by advertisement, shall be advertised in the prescribed newspaper, or if no newspaper be prescribed, or if the prescribed newspaper cease to be published, in a newspaper circulating in

Notices by advertisement.

**8 VICT.
CAP. 16.**

Authentication
of notices.

the district within which the company's principal place of business shall be situated.

139. Every summons, notice, or other such document requiring authentication by the company, may be signed by two directors, or by the treasurer or the secretary of the company, and need not be under the common seal of the company, and the same may be in writing or in print, or partly in writing and partly in print.

**PROOF OF
DEBTS IN
BANKRUPT-
CY.**

Secretary or
treasurer
may act on
behalf of
company.

140. And be it enacted, That if any person against whom the company shall have any claim or demand become bankrupt, or take the benefit of any act for the relief of insolvent debtors, it shall be lawful for the secretary or treasurer of the company, in all proceedings against the estate of such bankrupt or insolvent, or under any fiat, sequestration, or act of insolvency against such bankrupt or insolvent, to represent the company, and act in their behalf, in all respects as if such claim or demand had been the claim or demand of such secretary or treasurer, and not of the company.

**TENDER OF
AMENDS.**

After tender
of sufficient
amends,
party not to
recover in
any action.

141. And be it enacted, That if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit; and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

**RECOVERY
OF DAMAGES
AND PENAL-
TIES.**

Damages not
otherwise
provided for
may be as-
certained by
justices,

And with respect to the recovery of damages not specially provided for, and penalties, be it enacted as follows:

142. In all cases where any damages, costs, or expenses are by this or the special act, or any act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company, or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, on application shall issue their or his warrant accordingly.

and recover-
ed by dis-
tress of
goods of
company.

143. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, or expenses, payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company coming into his custody or control, or he may sue the company for the same.

8 VICT.
CAP. 16.

If goods of company cannot be found, then by distress of goods of treasurer.

Notice to treasurer.

Treasurer may sue the company.

144. Where in this or the special act, or any act incorporated therewith, any question of compensation, expenses, charges, or damages is referred to the determination of any one justice, or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the costs of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

Proceedings before justices in questions of damages.

Upon appearance or proof of service justices may determine.

145. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special act, or any act incorporated therewith, or by any bye-law of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be re-

Company to publish short particulars of offences for which any penalty is imposed, and affix in conspicuous places.

and renew when obliterated.

8 VICT.
CAP. 18.

Penalty for
defacing
boards used
for such
publication.

Penalties
may be re-
covered be-
fore two jus-
tices,

by sum-
mons.

Upon ap-
pearance or
proof of non-
service, justices
may con-
vict.

Penalties
may be
levied by
distress.

Justices
may detain
offenders
until return
be made to
warrant of
distress.

coverable unless it shall have been published and kept published in the manner hereinbefore required.

146. If any person pull down or injure any board put up or affixed as required by this or the special act, or any act incorporated therewith, for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

147. Every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice, he shall issue a summons, requiring the party complained against to appear before two justices at a time and place to be named in such summons; and every such summons shall be served on the party offending, either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them, and upon proof of the offence, either by the confession of the party complained against or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

148. If forthwith upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress; and such justices, or either of them, shall issue their or his warrant of distress accordingly.

149. It shall be lawful for any such justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture, and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the justice, for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of distress it shall appear to the justice, by the admission of the offender

or otherwise, that no sufficient distress can be had within the jurisdiction of such justice whereon to levy such penalty or forfeiture, and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the justice, then such justice shall, by warrant, cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture, and costs, be sooner paid and satisfied.

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CAP. 16.

If no sufficient distress can be had, offenders may be imprisoned.

150. Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress to be levied by sale of goods and chattels of offender.

Overplus to be repaid.

151. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not to be deemed unlawful for want of form.

152. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, for the benefit of the poor of such parish; or if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied for the benefit of the poor of such extra-parochial place, or of any adjoining parish or district, and shall order the same to be paid over to the proper officer for that purpose.

Justices may award penalties.

One half to the informer and remainder to overseers of the poor.

153. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence

Penalties to be sued for within six months.

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CAP. 16.

Damage to
property of
company to
be made good
in addition
to penalty.

Justice may
summon
witnesses.

Witnesses
making de-
fault, to for-
feit not ex-
ceeding 5*l*.

Officers of
company
may detain
offenders
whose names
and resi-
dence shall
be unknown.

Form of
conviction.

Proceedings
not to be va-
cated.

APPEAL.

Parties ag-
grieved may

154. If, through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the special act, or any act incorporated therewith, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

155. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction, under the provisions of this or the special act, or any act incorporated therewith, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

156. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special act, or any act incorporated therewith, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

157. The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule (G.) to this act annexed.

158. No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

159. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the

special act, or any act incorporated therewith, such party may appeal to the general quarter sessions for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

8 VICT.
CAP. 16.

appeal to
quarter
sessions.

Notice.

Security.

160. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Court to
hear the
appeal, and
make such
order as
they think
reasonable.

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows:

ACCESS TO
SPECIAL
ACT.

161. The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal, or other like undertaking, the works of which shall not be confined to one town or place, shall also, within the space of such six months, deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend, and in the office of the town clerk of every burgh or city into which or within one mile of which the works shall extend, a copy of such special act so printed as aforesaid; and the said clerks of the peace and town clerks shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms and under the like penalty for default, as is provided in the case of certain plans and sections, by an act passed in the first year of the reign of her present majesty, intituled "An Act to compel Clerks of the Peace

Copies of
special act
to be kept
at principal
office,

and deposited
with
clerks of
the peace
and town
clerks.

Inspection.

7 W. 4 &
1 Vict. c. 83.

8 VICT.
CAP. 18.

Penalty on
company
failing to
keep copies.

Scotland.

Sharehold-
ers residing
in Scotland
may be pro-
ceeded
against as
provided by
8 Vict. c. 17.

Act may be
amended or
repealed.

for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

162. If the company shall fail to keep or deposit as hereinbefore mentioned any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

163. And be it enacted, That this act shall not extend to Scotland.

164. Provided always, and be it enacted, That if any shareholder residing in Scotland shall fail to pay the amount of any call made upon him by the company in respect of any share held by him, it shall be lawful for the company to proceed against him in Scotland, and to sue for and recover the amount of such call, or to declare such share forfeited, in such manner as is by "The Companies' Clauses Consolidation (Scotland) Act, 1845," in case the same shall pass into a law, provided in regard to shareholders of any company in Scotland.

165. And be it enacted, That this act may be amended or repealed by any act to be passed in this session of parliament.

SCHEDULES referred to by the foregoing Act.

A.
Form of
certificate
of share.

A.—Form of Certificate of Share.

"The Company."

Number

THIS is to certify, that A.B. of is the proprietor of the share Number of "The Company," subject to the regulations of the said company. Given under the common seal of the said company, the day of in the year of our Lord

B.
Form of
transfer of
shares or
stock.

B.—Form of Transfer of Shares or Stock.

I of in consideration of the sum of paid to me by of do hereby transfer to the said share [or shares], numbered in the undertaking called "The Company" or] pounds consolidated stock in the undertaking called "The Company," standing (or part of the stock standing) in my name in the books of the company], to hold unto the said his executors, administrators, and assigns [or successors and assigns], subject to the several conditions on which I held the same at the time of the execution hereof; and I the said do hereby agree to take the said share [or shares] [or stock], subject to the

same conditions. As witness our hands and seals, the
 day of

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CAP. 16.

C.—Form of Mortgage Deed.

C.
Form of
Mortgage
deed.

"The Company."

Mortgage, Number £

By virtue of [here name the special act], we "The
 Company," in consideration of the sum of
 pounds paid to us by A.B. of do assign unto
 the said A.B., his executors, administrators, and assigns,
 the said undertaking, [and (in case such loan shall be in
 anticipation of the capital authorized to be raised) all
 future calls on shareholders], and all the tolls and sums of
 money arising by virtue of the said act, and all the estate,
 right, title, and interest of the company in the same; to
 hold unto the said A.B., his executors, administrators, and
 assigns, until the said sum of pounds, toge-
 ther with interest for the same at the rate of
 for every one hundred pounds by the year, be satisfied
 [the principal sum to be repaid at the end of
 years from the date hereof (in case any period be agreed
 upon for that purpose),] [at or any place of
 payment other than the principal office of the company].
 Given under our common seal, this day of
 in the year of our Lord

D.—Form of Bond.

D.
Form of
Bond.

"The Company."

Bond, Number £

By virtue of [here name the special act], we, "The
 Company," in consideration of the sum of
 pounds to us in hand paid by A.B. of do
 bind ourselves and our successors unto the said A.B., his
 executors, administrators, and assigns, in the penal sum
 of pounds.

The condition of the above obligation is such, that if
 the said company shall pay to the said A.B., his executors,
 administrators, or assigns, [at (in case any
 other place of payment than the principal office of the
 company be intended),] on the day of
 which will be in the year one thousand eight hundred and
 the principal sum of pounds,
 together with interest for the same at the rate of
 pounds per centum per annum, payable half-yearly on the
 day of and day of
 then the above-written obligation is to become
 void, otherwise to remain in full force. Given under our
 common seal, this day of one
 thousand eight hundred and

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CAP. 16.

E.—Form of Transfer of Mortgage or Bond.

E.
Form of
transfer of
mortgage or
bond.

I, A.B. of in consideration of the sum of paid to me by G.H. of do hereby transfer to the said G.H., his executors, administrators, and assigns, a certain bond [or mortgage] number made by "The Company" to bearing date the day of for securing the sum of and interest [or, if such transfer be by endorsement, the within security], and all my right, estate, and interest in and to the money thereby secured [and if the transfer be of a mortgage, and in and to the tolls, money, and property thereby assigned]. In witness whereof I have hereunto set my hand and seal, this day of one thousand eight hundred and

F.
Form of
proxy.

F.—Form of Proxy.

A.B. one of the proprietors of "The Company," doth hereby appoint C.D. of to be the proxy of the said A.B., in his absence to vote in his name upon any matter relating to the undertaking proposed at the meeting of the proprietors of the said company to be held on the day of next, in such manner as he the said C.D. doth think proper. In witness whereof the said A.B. hath hereunto set his hand [or, if a corporation, say the common seal of the corporation], the day of one thousand eight hundred and

G.
Form of
conviction.

G.—Form of Conviction.

to wit.
BE it remembered, That on the day of in the year of our Lord A.B. is convicted before us C., D., two of her Majesty's justices of the peace for the county of [here describe the offence generally, and the time and place when and where committed], contrary to the [here name the special act]. Given under our hands and seals, the day and year first above written.

C.
D.

LANDS' CLAUSES, 1846.

8 Vict. cap. 18. An Act for consolidating in One Act certain provisions usually inserted in Acts authorizing the taking of lands for Undertakings of a Public Nature. [8th May, 1845.]

WHEREAS it is expedient to comprise in one general act sundry provisions usually introduced into acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature, and to the compensation to be made for the same, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves,

Preamble.

See also 23 & 24 Vict. c. 106.

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall apply to every undertaking authorized by any act which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other act which shall be incorporated with such act, form part of such act, and be construed, together therewith, as forming one act,

Act to apply to all undertakings authorized by acts hereafter to be passed.

And with respect to the construction of this act and of acts to be incorporated therewith, be it enacted as follows:

INTERPRETATIONS IN THIS ACT.

2. The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed which shall authorize the taking of lands for the undertaking to which the same relates, and with which this act shall be so incorporated as aforesaid; and the

"Special act."

8 VICT. CAP. 18.	word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the works" or "the undertaking" shall mean the works or undertaking, of whatever nature, which shall by the special act be authorized to be executed; and the expression "the promoters of the undertaking" shall mean the parties, whether company, undertakers, commissioners, trustees, corporations, or private persons, by the special act empowered to execute such works or undertaking.
"prescribed."	
"the works."	
"promoters of the undertaking."	
INTERPRETATIONS IN THIS AND THE SPECIAL ACT.	3. The following words and expressions, both in this and the special act, shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; (that is to say,)
Number.	Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:
Gender.	Words importing the masculine gender only shall include females:
"Lands."	The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure:
"Lease."	The word "lease" shall include an agreement for a lease:
"Month."	The word "month" shall mean calendar month:
"Superior courts."	The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require
"Oath."	The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath:
"County."	The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:
"The sheriff."	The word "sheriff" shall include under sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff, or by any clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be
"The clerk of the peace."	

situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate :

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CAP. 18.

The word "justices" shall mean justices of the peace acting for the county, city, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter ; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter ; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together. "Justices."

Where under the provisions of this or the special act, or any act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, would be enabled to sell and convey lands to the promoters of the undertaking. "Owner."

The expression "the bank" shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England, and shall mean the Bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland. "The bank."

4. And be it enacted, That in citing this act in other acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Lands' Clauses Consolidation Act, 1845." Short title of the act.

5. And whereas it may be convenient in some cases to incorporate with acts of parliament hereafter to be passed some portion only of the provisions of this act ; be it therefore enacted, That, for the purpose of making any such incorporation, it shall be sufficient in any such act to enact that the clauses of this act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act in the words introductory to the enactment with respect to such matter,) shall be incor- Form in which portions of this act may be incorporated with other acts.

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PURCHASE
OF LANDS
BY AGREEMENT.

Promoters
may purchase by
agreement
lands authorized by
special act.

Parties entitled to any
such lands
empowered
to sell the
same to the
promoters,
and to enter
into all
necessary
agreements.

Parties
having
limited in-
terests en-
abled to sell
and convey.

perated with such act, and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

And with respect to the purchase of lands by agreement, be it enacted as follows:

6. Subject to the provisions of this and the special act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special act authorized to be taken, and which shall be required for the purposes of such act, and with all parties having any estate or interest in such lands, or by this or the special act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever.

7. It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same

extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this or the special act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, femmes covert, or other persons, and that to the same extent as such cestuique trusts respectively could have exercised the same powers under the authority of this and the special act if they had respectively been under no disability.

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CAP. 18.

8. The power hereinafter given to enfranchise copyhold lands, as well as every other power required to be exercised by the lord of any manor pursuant to the provisions of this or the special act, or any act incorporated therewith, and the power to release lands from any rent, charge, or incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters of the undertaking.

Parties under disability empowered to enfranchise copyholds, release lands from rent charge, &c.

9. The purchase money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provision hereinafter contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors if they agree, or if not then the surveyor nominated by the said justices, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof; and all such purchase money or compensation shall be deposited in the bank for the benefit of the parties interested, in manner hereinafter mentioned.

Amount of compensation in case of parties under disability to be ascertained by valuation.

10. It shall be lawful for any person seised in fee of, or entitled to dispose of absolutely for his own benefit, any lands authorized to be purchased for the purposes of the special act to sell and convey such lands or any part thereof unto the promoters of the undertaking, in consideration of an annual rent-charge payable by the pro-

Purchase money to be paid into the bank.

Vendors absolutely entitled may sell lands on chief rents.

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CAP. 18.

Repealed (in
part) by 23
& 24 Vict. c.
106, s. 1.
Chief rents
to be
charged on
tolls.

Extended by
23 & 24 Vict.
c. 106, s. 2.

Lands re-
quired for
additional
accommo-
dation may
be pur-
chased.

Promoters
may sell
such lands,
and pur-
chase other
lands for
the like
purposes.

Promoters
not to pur-
chase more
than the
prescribed
quantity of
land from
parties
under dis-
ability.

Municipal
corporations
not to sell
without the

motors of the undertaking, [*but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum.*]

11. The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable, and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking.

12. In case the promoters of the undertaking shall be empowered by the special act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions hereinbefore contained, would be enabled to sell and convey lands, to sell and convey the lands so authorized to be purchased for extraordinary purposes.

13. It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking, for the purposes aforesaid, shall not exceed the prescribed quantity.

14. The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the special act: and if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters of the undertaking any other lands in lieu of the land so sold or disposed of by them.

15. Nothing in this or the special act contained shall enable any municipal corporation to sell for the purposes of the special act, without the approbation of the commis-

tioners of her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any three of them, any lands which they could not have sold without such approbation before the passing of the special act, other than such lands as the company are by the powers of this or the special act empowered to purchase or take compulsorily.

And with respect to the purchase and taking of lands otherwise than by agreement, be it enacted as follows:

16. Where the undertaking is intended to be carried into effect by means of a capital to be subscribed by the promoters of the undertaking, the whole of the capital or estimated sum for defraying the expenses of the undertaking shall be subscribed under contract binding the parties thereto, their heirs, executors, and administrators, for the payment of the several sums by them respectively subscribed, before it shall be lawful to put in force any of the powers of this or the special act, or any act incorporated therewith, in relation to the compulsory taking of land for the purposes of the undertaking.

17. A certificate under the hands of two justices, certifying that the whole of the prescribed sum has been subscribed, shall be sufficient evidence thereof, and on the application of the promoters of the undertaking, and the production of such evidence as such justices think proper and sufficient, such justices shall grant such certificate accordingly.

18. When the promoters of the undertaking shall require to purchase or take any of the lands which by this or the special act, or any act incorporated therewith, they are authorized to purchase or take, they shall give notice thereof to all the parties interested in such lands, or to the parties enabled by this act to sell and convey or release the same, or such of the said parties as shall, after diligent inquiry, be known to the promoters of the undertaking, and by such notice shall demand from such parties the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof; and every such notice shall state the particulars of the lands so required, and that the promoters of the undertaking are willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

19. All notices required to be served by the promoters of the undertaking upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any such parties shall be absent from the United Kingdom, or

S VICT.
CAP. 18.

approbation
of the trea-
sury.

PURCHASE
OF LANDS
OTHERWISE
THAN BY
AGREEMENT.

Capital to be
subscribed
before com-
pulsory
powers put
in force.

Certificate
of justices
evidence
that capital
has been
subscribed.

[As to lands
for railways
in Ireland,
see 14 & 15
Vict. c. 70.]

Promoters
to give
notice of
their inten-
tion to take
lands to all
the parties
interested.

Notice to
state parti-
culars of
the lands
required.

Notices to,
to be served
personally
or left at
their places
of abode.

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CAP. 18.

Occupiers.

Notices to corporations to be left at their principal office.

If parties fail to treat, or disagree as to compensation, the amount to be settled in manner hereinafter provided.

Disputes as to compensation not exceeding 50*l.* to be settled by two justices.

Compensation exceeding 50*l.* may be settled by arbitration if desired by the party claiming.

cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

20. If any such party be a corporation aggregate such notice shall be left at the principal office of business of such corporation, or if no such office can after diligent inquiry be found, shall be served on some principal member, if any, of such corporation, and such notice shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

21. If, for twenty-one days after the service of such notice, any such party shall fail to state the particulars of his claim in respect of any such land, or to treat with the promoters of the undertaking in respect thereof, or if such party and the promoters of the undertaking shall not agree as to the amount of the compensation to be paid by the promoters of the undertaking for the interest in such lands belonging to such party, or which he is by this or the special act enabled to sell, or for any damage that may be sustained by him by reason of the execution of the works, the amount of such compensation shall be settled in the manner hereinafter provided for settling cases of disputed compensation.

22. If no agreement be come to between the promoters of the undertaking and the owners of or parties by this act enabled to sell and convey or release any lands taken or required for or injuriously affected by the execution of the undertaking, or any interest in such lands, as to the value of such lands or of any interest therein, or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed fifty pounds, the same shall be settled by two justices.

23. If the compensation claimed or offered in any such case shall exceed fifty pounds, and if the party claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the promoters of the undertaking, before they have issued their warrant to the sheriff to summon a jury in respect of such lands, under the provisions hereinafter contained, stating in such notice the nature of the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly; but unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or their umpire shall for three months have failed to make their or his award, or if no final award shall be made,

the question of such compensation shall be settled by the verdict of a jury, as hereinafter provided.

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24. It shall be lawful for any justice, upon the application of either party with respect to any question of disputed compensation by this or the special act, or any act incorporated therewith, authorized to be settled by two justices, to summon the other party to appear before two justices, at a time and place to be named in the summons, and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, upon oath, and the costs of every such inquiry shall be in the discretion of such justices, and they shall settle the amount thereof.

In questions of disputed compensation justices may issue summons, and upon appearance or proof of service determine.

25. When any question of disputed compensation by this or the special act, or any act incorporated therewith, authorized or required to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the promoters of the undertaking under the hands of the said promoters or any two of them, or of their secretary or clerk, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate under the common seal of such corporation; and such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

In questions of disputed compensation to be settled by arbitration, each party to appoint an arbitrator.

Appointment not to be revoked without consent.

On failure of one party, the other may appoint arbitrator to act on behalf of both.

26. If, before the matters so referred shall be determined, any arbitrator appointed by either party die, or

If arbitrator die, &c.

8 VICT.
CAP. 18.

another may
be appointed.
On failure
to do so the
other may
proceed.

Arbitrators
to appoint
umpire.

If umpire
die, &c.
another to
be appointed.

In the case
of railways,
Board of
Trade may
appoint an
umpire on
neglect of
the arbitra-
tors.

If single
arbitrator
die, the
matter to
begin de
novo.

If either
arbitrator
refuse to
act, the
other to
proceed.

If arbitra-
tors fail to
make their
award with-
in 21 days,
umpire to
decide.

become incapable, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

27. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this or the special act, and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

28. If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, the Board of Trade, in any case in which a railway company shall be one party to the arbitration, and two justices in any other case, shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special act, shall be final.

29. If, when a single arbitrator shall have been appointed, such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this or the special act in the same manner as if such arbitrator had not been appointed.

30. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

31. If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under

their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

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32. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrators may call for documents and administer oaths.

33. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall in the presence of a justice make and subscribe the following declaration; that is to say;

Arbitrator or umpire to make and subscribe declaration.

"I, A.B. do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act [naming the special act]."

"A. B.

"Made and subscribed in the presence of"

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanor.

Declaration to be annexed to award.

34. All the costs of any such arbitration, and incident thereto, to be settled by the arbitrators, shall be borne by the promoters of the undertaking, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters of the undertaking, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions.

Costs of arbitration.

35. The arbitrators shall deliver their award in writing to the promoters of the undertaking, and the said promoters shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

Arbitrators to deliver their award to promoters.

36. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

Submission to award.

37. No award made with respect to any question referred to arbitration under the provisions of this or the special act shall be set aside for irregularity or error in matter of form.

Award not to be set aside.

38. Before the promoters of the undertaking shall issue their warrant for summoning a jury for settling any case of disputed compensation they shall give not less than ten days' notice to the other party of their intention to cause

Promoters before summoning a jury to give notice and

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CAP. 13.

offer com-
pensation.

In questions
of disputed
compensa-
tion to be
settled by a
jury, the
promoters to
issue their
warrant to
the sheriff or
coroner,

or ex-sheriff
or ex-coro-
ner not in-
terested in
the matter
in dispute.

Provisions
applicable
to sheriff
to apply to
coroner.

Delivery of
jury lists.

Upon re-
ceipt of
warrant
sheriff to
summon
jury,

and give
notice to
promoters
of time and

such jury to be summoned, and in such notice the promoters of the undertaking shall state what sum of money they are willing to give for the interest in such lands sought to be purchased by them from such party, and for the damage to be sustained by him by the execution of the works.

39. In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury the promoters of the undertaking shall issue their warrant to the sheriff, requiring him to summon a jury for that purpose, and such warrant shall be under the common seal of the promoters of the undertaking if they be a corporation, or if they be not a corporation under the hands and seals of such promoters or any two of them; and if such sheriff be interested in the matter in dispute such application shall be made to some coroner of the county in which the lands in question, or some part thereof, shall be situate, and if all the coroners of such county be so interested, such application may be made to some person having filled the office of sheriff or coroner in such county, and who shall be then living there, and who shall not be interested in the matter in dispute; and with respect to the persons last mentioned preference shall be given to one who shall have most recently served either of the said offices; and every ex-sheriff, coroner, or ex-coroner shall have power, if he think fit, to appoint a deputy or assessor.

40. Throughout the enactments contained in this act relating to the reference to a jury, where the term "sheriff" is used, the provisions applicable thereto shall be held to apply to every coroner or other person lawfully acting in his place; and in every case in which any such warrant shall have been directed to any other person than the sheriff, such sheriff shall, immediately on receiving notice of the delivery of the warrant, deliver over, on application for that purpose, to the person to whom the same shall have been directed, or to any person appointed by him to receive the same, the jurors' book and special jurors' list belonging to the county where the lands in question shall be situate.

41. Upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than twenty-one days after the receipt of such warrant, and such place not being more than eight miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice

to the promoters of the works of the time and place so appointed by him.

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42. Out of the jurors appearing upon such summons a jury of twelve persons shall be drawn by the sheriff, in such manner as juries for trials of issues joined in the superior courts are by law required to be drawn, and if a sufficient number of jurymen do not appear in obedience to such summons the sheriff shall return other indifferent men, duly qualified as aforesaid, of the bystanders, or others that can speedily be procured, to make up the jury to the number aforesaid; and all parties concerned may have their lawful challenges against any of the jurymen, but no such party shall challenge the array.

place appointed.
Jury to be drawn by sheriff out of jurors appearing upon summons.

43. The sheriff shall preside on the said inquiry, and the party claiming compensation shall be deemed the plaintiff, and shall have all such rights and privileges as the plaintiff is entitled to in the trial of actions at law; and if either party so request in writing, the sheriff shall summon before him any person considered necessary to be examined as a witness touching the matters in question, and on the like request the sheriff shall order the jury, or any six or more of them, to view the place or matter in controversy, in like manner as views may be had in the trial of actions in the superior courts.

Sheriff to preside at inquiry.

and on request to summon witnesses, &c.

44. If the sheriff make default in any of the matters hereinbefore required to be done by him in relation to any such trial or inquiry, he shall forfeit fifty pounds for every such offence, and such penalty shall be recoverable by the promoters of the undertaking by action in any of the superior courts; and if any person summoned and returned upon any jury under this or the special act, whether common or special, do not appear, or if appearing, he refuse to make oath, or in any other manner unlawfully neglect his duty, he shall, unless he show reasonable excuse to the satisfaction of the sheriff, forfeit a sum not exceeding ten pounds, and every such penalty payable by a sheriff or jurymen shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend; and, in addition to the penalty hereby imposed, every such jurymen shall be subject to the same regulations, pains, and penalties as if such jury had been returned for the trial of an issue joined in any of the superior courts.

If sheriff make default to forfeit 50*l*.

Jurors not appearing, or neglecting their duty, liable to forfeit 10*l*.

45. If any person duly summoned to give evidence upon any such inquiry, and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons without sufficient cause, or if any person, whether summoned or not, who shall appear as a witness refuse to be examined on oath touching the subject matter in question, every

Witnesses not appearing or refusing to be examined, liable to forfeit 10*l*.

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CAP. 18.

Promoters
to give no-
tice.

If party
claiming
make
default, in-
quiry not to
proceed.

Jury to be
sworn by
the sheriff.

Jury to as-
sess sepa-
rately the
sums to be
paid for
purchase of
lands and
for damage
to other
lands.

Verdict and
judgment to
be signed by
the sheriff
and kept by
the clerk of
the peace.

Copies to be
evidence.

Inspection
and fee.

person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds.

46. Not less than ten days' notice of the time and place of the inquiry shall be given in writing by the promoters of the undertaking to the other party.

47. If the party claiming compensation shall not appear at the time appointed for the inquiry such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a surveyor appointed by two justices in manner hereinafter provided.

48. Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is to be given they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage, and the sheriff shall administer such oaths, as well as the oaths of all persons called upon to give evidence.

49. Where such inquiry shall relate to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works, or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which, under the provisions herein contained, he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special act, or any act incorporated therewith.

50. The sheriff before whom such inquiry shall be held shall give judgment for the purchase money or compensation assessed by such jury, and the verdict and judgment shall be signed by the sheriff, and being so signed shall be kept by the clerk of the peace among the records of the general or quarter sessions of the county in which the lands or any part thereof shall be situate in respect of which such purchase money or compensation shall have been awarded; and such verdicts and judgments shall be deemed records, and the same or true copies thereof shall be good evidence in all courts and elsewhere, and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom, on paying for each inspection thereof one shilling, and for every one hundred words copied or extracted therefrom sixpence, which copies or extracts the clerk of the peace is hereby required to make out, and to sign and certify the same to be true copies.

51. On every such inquiry before a jury, where the verdict of the jury shall be given for a greater sum than the sum previously offered by the promoters of the undertaking, all the costs of such inquiry shall be borne by the promoters of the undertaking; but if the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or if the owner of the lands shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, one-half of the costs of summoning, impannelling, and returning the jury, and of taking the inquiry and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the owner of the lands, and the other half by the promoters of the undertaking, and each party shall bear his own costs, other than as aforesaid, incident to such inquiry.

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CAP. 18.

Costs of the inquiry to be borne by the promoters where verdict given for a greater sum than previously offered, in other cases to be defrayed equally by both parties.

52. The costs of any such inquiry shall, in case of difference, be settled by one of the masters of the court of Queen's Bench of England or Ireland, according as the lands are situate, on the application of either party, and such costs shall include all reasonable costs, charges, and expenses incurred in summoning, impannelling, and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and attorneys, recording the verdict and judgment thereon, and otherwise incident to such inquiry.

Costs of inquiry in case of difference to be settled by one of the masters of the Queen's Bench.

53. If any such costs shall be payable by the promoters of the undertaking, and if within seven days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; and if any such costs shall be payable by the owner of the lands or of any interest therein, the same may be deducted and retained by the promoters of the undertaking, out of any money awarded by the jury to such owner, or determined by the valuation of a surveyor under the provision hereinafter contained; and the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined, the excess shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly.

Costs payable by promoters may be recovered by distress; payable by owners of lands may be deducted from compensation.

54. If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, be given to the promoters of the undertaking before they have issued

Either party may require that questions of compensation be tried

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CAP. 18.

by special
jury.

Sheriff on
receipt of
warrant to
nominate
special jury.

their warrant to the sheriff; and for that purpose the promoters of the undertaking shall by their warrant to the sheriff require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attorneys, at some convenient time and place appointed by him for the purpose of nominating a special jury (not being less than five nor more than eight days from the service of such summons); and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury, in the manner in which such juries shall be required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts, and the sheriff shall appoint a day, not later than the eighth day after striking of such jury, for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days' notice to the parties; and on the day so appointed the sheriff shall proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts.

Deficiency of
special jury-
men may be
supplied by
other per-
sons qual-
ified as
special or
common
jurymen.

55. The special jury on such inquiry shall consist of twelve of the said twenty, who shall first appear on the names being called over, the parties having their lawful challenges against any of the said jurymen; and if a full jury do not appear, or if after such challenges a full jury do not remain, then, upon the application of either party, the sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the court, or can speedily be procured, so as to complete such jury, all parties having their lawful challenges against such persons; and the sheriff shall proceed to the trial and adjudication of the matters in question by such jury, and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable, as hereinbefore provided in the case of a trial by common jury.

Trial to be
in the same
manner as
by common
jury.

Other in-
quiries may
be tried by
such jury.

56. Any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury, provided the parties thereto respectively shall give their consent to such trial.

Attendance
of jurymen.

57. No jurymen shall, without his consent, be summoned or required to attend any such proceeding as aforesaid more than once in any year.

Compensa-
tion to ab-

58. The purchase-money or compensation to be paid for any lands to be purchased or taken by the promoters of

the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury as hereinbefore provided for, after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by the valuation of such able practical surveyor as two justices shall nominate for that purpose as hereinafter mentioned.

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CAP. 18.

sent parties to be determined by a surveyor appointed by two justices.

59. Upon application by the promoters of the undertaking to two justices, and upon such proof as shall be satisfactory to them that any such party is, by reason of absence from the kingdom, prevented from treating, or cannot after diligent inquiry be found, or that any such party failed to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such justices shall, by writing under their hands, nominate an able practical surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Upon application of promoters two justices to nominate a surveyor

60. Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall, in the presence of such justices, or one of them, make and subscribe the declaration following at the foot of such nomination; (that is to say,)

Surveyor to make and subscribe declaration.

"I *A. B.* do solemnly and sincerely declare, that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

"*A. B.*

"Made and subscribed in the presence of"

And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

61. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein.

Nomination and declaration to be annexed to valuation.

62. All the expenses of and incident to every such valuation shall be borne by the promoters of the undertaking.

Expenses to be borne by promoters.

63. In estimating the purchase money or compensation to be paid by the promoters of the undertaking, in any of the cases aforesaid, regard shall be had by the justices, arbitrators, or surveyors, as the case may be, not only to

In estimating purchase money and compensation, re-

8 VICT.
CAP. 18.

gard to be
had to
damage by
severance of
lands.

When com-
pensation to
absent party
has been de-
termined by
a surveyor,
the party
may have
the same
submitted to
arbitration.

Question to
be submitted
to the arbi-
trators.

If further
sum award-
ed, promo-
ters to pay
or deposit
same within
14 days.

Costs of
the arbitra-
tion.

Compensa-
tion in re-
spect of
lands inju-
riously
affected by

the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the special act, or any act incorporated therewith.

64. When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited in the bank under the provisions herein contained, by reason that the owner of or party entitled to convey such lands or such interest therein as aforesaid could not be found or was absent from the kingdom, if such owner or party shall be dissatisfied with such valuation it shall be lawful for him, before he shall have applied to the Court of Chancery for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation hereinbefore authorized or required to be submitted to arbitration.

65. The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

66. If the arbitrators shall award that a further sum ought to be paid or deposited by the promoters of the undertaking, they shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such award, or in default thereof the same may be enforced by attachment, or recovered with costs by action or suit in any of the superior courts.

67. If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators, but if the arbitrators shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the costs of and incident to the arbitration shall be borne by the promoters of the undertaking.

68. If any party shall be entitled to any compensation in respect of any lands, or of any interest therein, which shall have been taken for or injuriously affected by the execution of the works, and for which the promoters of the undertaking shall not have made satisfaction under the

provisions of this or the special act, or any act incorporated therewith, and if the compensation claimed in such case shall exceed the sum of fifty pounds, such party may have the same settled either by arbitration or by the verdict of a jury, as he shall think fit: and if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing to the promoters of the undertaking of such his desire, stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed therein; and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided; or if the party so entitled as aforesaid desire to have such question of compensation settled by jury, it shall be lawful for him to give notice in writing of such his desire to the promoters of the undertaking, stating such particulars as aforesaid, and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose, they shall, within twenty-one days after the receipt of such notice, issue their warrant to the sheriff to summon a jury for settling the same in the manner herein provided, and in default thereof they shall be liable to pay to the party so entitled as aforesaid the amount of compensation so claimed, and the same may be recovered by him, with costs, by action in any of the superior courts.

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

69. If the purchase money or compensation which shall be payable in respect of any lands, or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same except under the provisions of this or the special act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the bank, in the name and with the privity of the Accountant-General of the Court of Chancery in England if the same relate to lands in England or Wales, or the

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CAP. 18.

works may be settled either by arbitration or by jury. Promoters on receiving notice to pay amount claimed, or refer to arbitration,

or issue warrant to sheriff to summon a jury.

APPLICA-
TION OF
COMPENSA-
TION.

Purchase money payable to parties under disability, amounting to 200*l.* to be deposited in the bank in the name of the accountant-general.

8 VICT.
CAP. 18.

"Chancery,"
see 13 & 14
Vict. c. 51,
s. 8.

and remain
until ap-
plied to the
following
purposes.

Purchase or
redemption
of land tax,
or discharge
of debt.

Purchase of
other lands.

Removing or
replacing
buildings.

[As to lands
within the
county pala-
tine of Lan-
caster, see 13
& 14 Vict. c.
43, s. 12, and
17 & 18 Vict.
c. 82, s. 13.]

Money may
be so ap-
plied by
order of
court upon
petition of
party enti-
tled.

"Chancery."

Interest to
be paid to
party enti-
tled to pro-
fits.

Sums from
20l. to 200l.
to be depo-
sited in the
bank, or paid
to trustees.

Accountant-General of the Court of *Exchequer* in Ireland if the same relate to lands in Ireland, to be placed to the account there of such accountant-general, ex-parte the promoters of the undertaking (describing them by their proper name), in the matter of the special act (citing it), pursuant to the method prescribed by any act for the time being in force for regulating monies paid into the said courts; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes; or

In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner as the lands in respect of which such money shall have been paid stood settled; or

If such money shall be paid in respect of any buildings taken under the authority of this or the special act, or injured by the proximity of the works, in removing or replacing such buildings, or substituting others in their stead, in such manner as the Court of Chancery shall direct; or

In payment to any party becoming absolutely entitled to such money.

70. Such money may be so applied as aforesaid upon an order of the Court of Chancery in England or the Court of *Exchequer* in Ireland, made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said accountant-general in the purchase of three per centum consolidated or three per centum reduced bank annuities, or in government or real securities, and the interest, dividends, and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

71. If such purchase money or compensation shall not amount to the sum of two hundred pounds, and shall exceed the sum of twenty pounds, the same shall either be paid into the bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect

whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled; and in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such monies, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees; but such last-mentioned application of the monies shall not be made unless the promoters of the undertaking approve thereof and of the trustees named for the purpose; and the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner hereinbefore directed with respect to money paid into the bank, but it shall not be necessary to obtain any order of the court for that purpose.

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CAP. 18.

Money so paid to be applied as before directed.

72. If such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit, or in case of the coverture, infancy, idiocy, lunacy, or other incapacity of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees, or trustees of such persons.

Sums not exceeding 20l. to be paid to parties.

73. All sums of money exceeding twenty pounds, which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him, absolutely for his own benefit, shall be paid into the bank or to trustees in manner aforesaid; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels, or other accommodation works, or for assenting to or not opposing the passing of the bill authorising the taking of such lands, but all such monies shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy: provided always, that it shall be in the discretion of the Court of Chancery in England or the Court of *Exchequer* in Ireland, or the said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the bank, or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance which he may be considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the

All sums exceeding 20l. payable under contract with persons not absolutely entitled, to be paid into bank.

"Chancery." Court may allot to tenants for life, &c. compensation for injury sustained independently of value of lands.

8 VICT.
CAP. 18.

Where compensation paid for leases or reversions, court may direct application of money as they may think just
"Chancery."

Upon deposit being made, the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking upon a deed poll being executed.

lands held therewith, by reason of the taking of such lands and the making of the works.

74. Where any purchase money or compensation paid into the bank under the provisions of this or the special act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery in England or the Court of *Exchequer* in Ireland, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

75. Upon deposit in the bank in manner hereinbefore provided of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the special act, or any act incorporated therewith, the owner of such lands, including in such term all parties by this act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the promoters, or any two of them, containing a description of the lands in respect of which such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken, and the deposit made in respect thereof, and declaring the fact of such default having been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by two justices as herein provided,

and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking, and as against such parties, and all parties on behalf of whom they are hereinbefore enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands.

8 VICT.
CAP. 18.

76. If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, in the bank, in the name and with the privity of the accountant-general of the Court of Chancery in England or the Court of *Exchequer* in Ireland, to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands (describing them so far as the promoters of the undertaking can do), subject to the control and disposition of the said court.

Where parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited in the bank.

"Chancery."

77. Upon any such deposit of money as last aforesaid being made the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase money or compensation shall have been

Upon deposit being made in the bank a receipt to be given, and the lands to vest in the promoters upon a deed poll being executed.

8 VICT.
CAP. 18.

Upon appli-
cation of
party
making
claim to
monies so
deposited,
the court
may order
such money
to be invest-
ed or dis-
tributed.

"Chancery."

Parties in
possession
of lands to
be deemed
the owners
until the
contrary be
shown to
be the satis-
faction of
the court.

In all cases
of money de-
posited in
the bank,
(except by
reason of
wilful re-
fusal or neg-
lect) the
court may
order the
costs to be
paid by the
promoters.
"Chancery."

deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

78. Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in England or the Court of *Exchequer* in Ireland may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit.

79. If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the court; and unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

80. In all cases of monies deposited in the bank under the provisions of this or the special act, or an act incorporated therewith, except where such monies shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery in England or the Court of *Exchequer* in Ireland to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the promoters of the undertaking; (that is to say,) the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such monies in government or real securities, and of the reinvestment thereof in the purchase of other lands, and also the costs of obtaining the proper

orders for any of the purposes aforesaid, and of the orders for the payment of the dividends and interest of the securities upon which such monies shall be invested, and for the payment out of court of the principal of such monies, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants: provided always, that the costs of one application only for reinvestment in land shall be allowed, unless it shall appear to the Court of Chancery in England or the Court of *Exchequer* in Ireland that it is for the benefit of the parties interested in the said monies that the same should be invested in the purchase of lands, in different sums and at different times, in which case it shall be lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

And with respect to the conveyances of lands, be it enacted as follows :

81. Conveyances of lands to be purchased under the provisions of this or the special act, or any act incorporated therewith, may be according to the forms in the schedules (A.) and (B.) respectively to this act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules or as near thereto as the circumstances of the case will admit shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands comprised in such conveyances which shall have been purchased or compensated for by the consideration therein mentioned; but although terms of years be thereby merged, they shall in equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance.

82. The costs of all such conveyances shall be borne by the promoters of the undertaking, and such costs shall include all charges and expenses incurred, on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interests therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests,

8 VICT.
CAP. 18.

Costs of one application only for reinvestment in land to be allowed unless court otherwise orders.

"Chancery."

CONVEY-
ANCE OF
LANDS.

Conveyances may be according to forms in schedule or by deed.

To vest lands there by conveyed in promoters, and merge all terms of years.

Costs of conveyances to be borne by promoters,

to include expenses of

8 VICT.
CAP. 18.

verifying
title and
furnishing
abstracts.

Costs of
conveyances
may be
taxed by one
of the taxing
masters of
the Court of
Chancery.

Expenses of
taxing costs
to be borne
by promoters
unless one
sixth part be
disallowed.

ENTRY ON
LANDS.

Promoters
not to enter
upon lands
until purchase
money be paid or
deposited,

unless for
surveying,
taking
levels, or
setting out
the line.

If promoters
be desirous
of entering
upon lands
before

and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expenses incident to the investigation, deduction, and verification of such title.

83. If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the taxing masters of the Court of Chancery, or by a master in Chancery in Ireland, upon an order of the same court to be obtained upon petition in a summary way by either of the parties; and the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by distress in the manner hereinbefore provided in other cases of costs; and the expense of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one-sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master and deducted by him accordingly in his certificate of such taxation.

And with respect to the entry upon lands by the promoters of the undertaking, be it enacted as follows:

84. The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special act, until they shall either have paid to every party having any interest in such lands, or deposited in the bank, in the manner herein mentioned, the purchase money or compensation agreed or awarded to be paid to such parties respectively for their respective interests therein: provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than three nor more than fourteen days' notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof.

85. Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made, or verdict given for the purchase

money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking to deposit in the bank by way of security, as hereinafter mentioned, either the amount of purchase money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed by two justices in the manner hereinbefore provided in the case of parties who cannot be found, be determined to be the value of such lands, or of the interest therein which such party is entitled to or enabled to sell and convey, and also to give to such party a bond, under the common seal of the promoters if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, with two sufficient sureties to be approved of by two justices in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit in the bank for the benefit of the parties interested in such lands as the case may require, under the provisions herein contained, of all such purchase money or compensation, as may in manner hereinbefore provided be determined to be payable by the promoters of the undertaking in respect of the lands so entered upon, together with interest thereon, at the rate of five pounds per centum per annum, from the time of entering on such lands, until such purchase money or compensation shall be paid to such party, or deposited in the bank for the benefit of the parties interested in such lands, under the provisions herein contained; and upon such deposit by way of security being made as aforesaid, and such bond being delivered or tendered to such non-consenting party as aforesaid, it shall be lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special act.

86. The money so to be deposited as last aforesaid shall be paid into the bank in the name and with the privy of the accountant-general of the Court of Chancery in England or the Court of *Exchequer* in Ireland, to be placed to his account there to the credit of the parties interested in or entitled to sell and convey the lands so to be entered upon, and who shall not have consented to such entry, subject to the control and disposition of the said court; and upon such deposit being made, the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction,

8 VICT.
CAP. 18.

agreement come to for purchase, they may deposit in bank amount claimed, or such sum as surveyor determines to be the value, and also give bond to parties interested.

Upon making deposit and giving bond promoters may enter upon lands.

Money to be deposited in bank in name of accountant general.
"Chancery."

Cashier of bank to give a receipt.

8 VIOR.
CAP. 18.

Money deposited to remain as a security to parties whose lands have been entered upon, and to be applied under the direction of the court.

"Chancery."

The company may pay the deposit money into the bank by way of security during the time that the office of the accountant-general is closed.

"Chancery."

If promoters enter upon lands without consent

a receipt for such money, specifying therein for what purpose and to whose credit the same shall have been paid in.

87. The money so deposited as last aforesaid shall remain in the bank, by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and the same may, on the application by petition of the promoters of the undertaking, be ordered to be invested in bank annuities or government securities, and accumulated; and upon the condition of such bond being fully performed it shall be lawful for the Court of Chancery in England or the Court of *Exchequer* in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the promoters of the undertaking, or if such condition shall not be fully performed, it shall be lawful for the said court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

88. If at any time the company be unable, by reason of the closing of the office of the accountant-general of the Court of Chancery in England or the court of *Exchequer* in Ireland, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the bank by way of security as aforesaid, it shall be lawful for the company to pay into the bank to the credit of such party or matter as the case may require (subject nevertheless to being dealt with as hereinafter provided, and not otherwise), such sum of money as the promoters of the undertaking shall, by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the bank in that behalf, request, and upon any such payment being made the cashier of the bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said accountant-general's office, the solicitor for the promoters of the undertaking shall there bespeak the direction for the payment of such sum into the name of the accountant-general, and upon production of such direction at the bank of England the money so previously paid in shall be placed to the credit of the said accountant-general accordingly, and the receipt for the said payment be given to the party making the same in the usual way for the purpose of being filed at the report office.

89. If the promoters of the undertaking or any of their contractors shall, except as aforesaid, wilfully enter upon and take possession of any lands which shall be required

to be purchased or permanently used for the purposes of the special act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands, or such deposit by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of ten pounds, over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before two justices; and if the promoters of the undertaking or their contractors shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of twenty-five pounds for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party in possession of such lands, with costs, by action in any of the superior courts: provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall bona fide and without collusion have paid the compensation agreed or awarded to be paid in respect of the said lands to any person whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the bank for the benefit of the parties interested in the lands, or made such deposit by way of security in respect thereof as hereinbefore mentioned, although such person may not have been legally entitled thereto.

90. On the trial of any action for any such penalty as aforesaid the decision of the justices under the provision hereinbefore contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking.

91. If in any case in which, according to the provisions of this or the special act, or any act incorporated therewith, the promoters of the undertaking are authorized to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to issue their warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing to deliver

§ VIOR.
CAP. 18.

before payment or deposit of purchase money to forfeit 10% above damage.

If promoters after conviction continue in possession to forfeit 25% per day.

Promoters not liable if compensation paid to parties believed to be entitled thereto.

On trial decision of justices not to be held conclusive.

In case of refusal to deliver possession of lands, promoters may issue their warrant to sheriff.

Upon receipt of warrant, sheriff

8 VICT.
CAP. 18.

possession
and settle
costs.

Costs to be
deducted
from com-
pensation or
levied by
distress.

No party to
be required
to sell part
of a house.

INTERSECT-
ED LANDS.

Owners of
intersected
lands may
require pro-
motors to
purchase the
same,

or to throw
into adjoining
land.

Promoters
may insist
on purchase
of intersect-
ed lands,
where ex-
pense of
bridges, &c.
exceeds the
value.

Disputes as
to value to
be ascer-
tained as

and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to such party, or if no such compensation be payable to such party, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

92. And be it enacted, That no party shall at any time be required to sell or convey to the promoters of the undertaking a part only of any house or other building or manufactory, if such party be willing and able to sell and convey the whole thereof.

And with respect to small portions of intersected land, be it enacted as follows :

93. If any lands not being situate in a town or built upon shall be so cut through and divided by the works as to leave, either on both sides or on one side thereof, a less quantity of land than half a statute acre, and if the owner of such small parcel of land require the promoters of the undertaking to purchase the same along with the other land required for the purposes of the special act, the promoters of the undertaking shall purchase the same accordingly, unless the owner thereof have other land adjoining to that so left into which the same can be thrown, so as to be conveniently occupied therewith ; and if such owner have any other land so adjoining, the promoters of the undertaking shall, if so required by the owner, at their own expense, throw the piece of land so left into such adjoining land, by removing the fences and levelling the sites thereof, and by soiling the same in a sufficient and workmanlike manner.

94. If any such land shall be so cut through and divided as to leave on either side of the works a piece of land of less extent than half a statute acre, or of less value than the expense of making a bridge, culvert, or such other communication between the land so divided as the promoters of the undertaking are, under the provisions of this or the special act, or any act incorporated therewith, compellable to make, and if the owner of such lands have not other lands adjoining such piece of land, and require the promoters of the undertaking to make such communication, then the promoters of the undertaking may require such owner to sell to them such piece of land, and any dispute as to the value of such piece of land, or as to what would be the expense of making such communication, shall be

ascertained as herein provided for cases of disputed compensation; and on the occasion of ascertaining the value of the land required to be taken for the purposes of the works, the jury or the arbitrators, as the case may be, shall, if required by either party, ascertain by their verdict or award the value of any such severed piece of land, and also what would be the expense of making such communication.

8 VICT.
CAP. 18.

provided for
cases of dis-
puted com-
pensation.

And with respect to copyhold lands, be it enacted as follows:

95. Every conveyance to the promoters of the undertaking, of any lands which shall be of copyhold or customary tenure, or of the nature thereof, shall be entered on the rolls of the manor of which the same shall be held or parcel; and on payment to the steward of such copyhold or fees as would be due to him on the surrender of the same lands to the use of a purchaser thereof he shall make such enrolment; and every such conveyance, when so enrolled, shall have the like effect, in respect of such copyhold or customary lands, as if the same had been of freehold tenure, nevertheless, until such lands shall have been enfranchised by virtue of the powers hereinafter contained, they shall continue subject to the same fines, rents, heriots, and services as were theretofore payable and of right accustomed.

Conveyance
to promoters
of copyhold
lands to be
entered on
rolls of
manor.

Until en-
franchised
to continue
subject to
fines, &c.

96. Within three months after the enrolment of the conveyance of any such copyhold or customary lands, or within one month after the promoters of the undertaking shall enter upon and make use of the same for the purposes of the works, whichever shall first happen, or if more than one parcel of such lands holden of the same manor shall have been taken by them, then within one month after the last of such parcel shall have been so taken or entered on by them, the promoters of the undertaking shall procure the whole of the lands holden of such manor so taken by them to be enfranchised, and for that purpose shall apply to the lord of the manor whereof such lands are holden to enfranchise the same, and shall pay to him such compensation in respect thereof as shall be agreed upon between them and him, and if the parties fail to agree respecting the amount of the compensation to be paid for such enfranchisement the same shall be determined as in other cases of disputed compensation; and in estimating such compensation the loss in respect of the fines, heriots, and other services payable on death, descent, or alienation, or any other matters which would be lost by the vesting of such copyhold or customary lands in the promoters of the undertaking, or by the enfranchisement of the same, shall be allowed for.

Promoters
to procure
lands holden
of manors to
be enfran-
chised and
pay such com-
pensation as
shall be agreed
upon or de-
termined as
in other
cases of
disputed
compensa-
tion.

8 Vict.
CAP. 18.

Upon pay-
ment or de-
posit of
compensa-
tion lord of
manor to
enfranchise
lands, and in
default
thereof pro-
motors may
execute a
deed poll.

If part only
of lands sub-
ject to copy-
hold rents be
taken, the
apportion-
ment of
such rent
may be set-
tled by
agreement
or by two
justices.

COMMON
LANDS.

Compensa-
tion for
right in soil
of common
lands to be
paid to lord
of manor or
other party
entitled.

97. Upon payment or tender of the compensation so agreed upon or determined, or on deposit thereof in the bank in any of the cases hereinbefore in that behalf provided, the lord of the manor whereof such copyhold or customary lands shall be holden shall enfranchise such lands, and the lands so enfranchised shall for ever thereafter be held in free and common soccage; and in default of such enfranchisement by the lord of the manor, or if he fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of the enfranchisement whereof such compensation shall have been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in free and common soccage.

98. If any such copyhold or customary lands be subject to any customary or other rent, and part only of the land subject to any such rent be required to be taken for the purposes of the special act, the apportionment of such rent may be settled by agreement between the owner of the lands and the lord of the manor on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement, then the same shall be settled by two justices; and the enfranchisement of any copyhold or customary lands taken by virtue of this or the special act, or the apportionment of such rents, shall not affect in other respects any custom by or under which any such copyhold or customary lands not taken for such purposes shall be held; and if any of the lands so required be released from any portion of the rents to which they were subject jointly with any other lands, such last-mentioned lands shall be charged with the remainder only of such rents; and with reference to any such apportioned rents, the lord of the manor shall have all the same rights and remedies over the lands to which such apportioned rent shall have been assigned or attributed as he had previously over the whole of the lands subject to such rents for the whole of such rents.

And with respect to any such lands being common or waste lands, be it enacted as follows:

99. The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the lord of the manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil; and the compensation in respect of all other commonable and other rights in or over such lands, including therein

any commonable or other rights to which the lord of the manor may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner hereinafter provided with respect to common lands the right in the soil of which shall belong to the commoners; and upon payment or deposit in the bank of the compensation so determined all such commonable and other rights shall cease and be extinguished.

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100. Upon payment or tender to the lord of the manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the bank in any of the cases hereinbefore in that behalf provided, such lord of the manor or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking, in like manner as if such lord of the manor, or such other party as aforesaid, had been seised in fee simple of such lands at the time of executing such conveyance; and in default of such conveyance it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner hereinafter provided.

Upon payment of deposit of compensation for right in soil of common lands, the party entitled to convey such lands to promoters, or in default they may execute a deed poll.

101. The compensation to be paid with respect to any such lands, being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the lord of the manor, or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands, to be appointed as next hereinafter mentioned.

Compensation for rights of common to be determined by promoters and committee of parties entitled.

102. It shall be lawful for the promoters of the undertaking to convene a meeting of the parties entitled to commonable or other rights over or in such lands to be held at some convenient place in the neighbourhood of the

Promoters may convene a meeting of parties entitled to

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rights of
common by
advertis-
ment.

Notice of
meeting to
be affixed to
parish
church.

Meeting so
called to
appoint a
committee.

Committee
so chosen
to agree
with the
promoters.

As to appli-
cation of
compensa-
tion, see In-
closure of
Lands Act,
17 & 18
Viot. c. 97,
ss. 15 to 20.

Disputes to
be settled
as in other
cases.

If no com-
mittee ap-
pointed, to
be deter-
mined by a
surveyor.

lands, for the purpose of their appointing a committee to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights; and every such meeting shall be called by public advertisement, to be inserted once at least in two consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such lands shall be situate, the last of such insertions being not more than fourteen nor less than seven days prior to any such meeting; and notice of such meeting shall also, not less than seven days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church some other place in the neighbourhood to which notices are usually affixed; and if such lands be parcel or holden of a manor, a like notice shall be given to the lord of such manor.

103. It shall be lawful for the meeting so called to appoint a committee, not exceeding five in number, of the parties entitled to any such rights; and at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties.

104. It shall be lawful for the committee so chosen to enter into an agreement with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves and all other parties interested therein; and all such parties shall be bound by such agreement; and it shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any three of them, for such compensation, shall be an effectual discharge for the same; *and such compensation, when received, shall be apportioned by the committee among the several persons interested therein, according to their respective interests*, but the promoters of the undertaking shall not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or nonapplication thereof.

105. If upon such committee being appointed they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation.

106. If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place, or if, taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by

a surveyor, to be appointed by two justices, as herein before provided in the case of parties who cannot be found.

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107. Upon payment or tender to such committee, or any three of them, or if there shall be no such committee, then upon deposit in the bank in the manner provided in the like case of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking, freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof; and it shall be lawful for the Court of Chancery in England or the Court of *Exchequer* in Ireland, by an order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other order in respect thereto, for the benefit of the parties interested, as it shall think fit.

Upon payment or deposit of compensation payable to commoners the promoters may execute a deed poll, and thereupon the lands to vest.

"Chancery."

And with respect to lands subject to mortgage, be it enacted as follows:

LANDS IN MORTGAGE.

108. It shall be lawful for the promoters of the undertaking to purchase or redeem the interest of the mortgagee of any such lands which may be required for the purposes of the special act, and that whether they shall have previously purchased the equity of redemption of such lands or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of such lands by virtue of such mortgage or not, and whether such mortgage affect such lands solely, or jointly with any other lands not required for the purposes of the special act, and in order thereto the promoters of the undertaking may pay or tender to such mortgagee the principal and interest due on such mortgage, together with his costs and charges, if any, and also six months' additional interest, and thereupon such mortgagee shall immediately convey his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct, or the promoters of the undertaking may give notice in writing to such mortgagee that they will pay off the principal and interest due on such mortgage at the end of six months, computed from the day of giving such notice; and if they shall have given any such notice, or if the party entitled to the equity of redemption of any such lands shall have given six months' notice of his intention to redeem the

Promoters may purchase or redeem interest of mortgagee,

by paying principal, interest, and costs, with six months' additional interest.

or may give notice to pay off principal and interest at end of six months.

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Upon pay-
ment or
tender of
money
mortgagee
to release
his interest.

If mort-
gagee fail
to release
his interest
in lands, pro-
moters may
deposit
money in
bank and
execute a
deed poll.

Interest of
mortgagee
to vest in
the promo-
ters.

If mort-
gaged lands
be of less
value the
compensa-
tion to be
settled by
agreement
or deter-
mined as in
other cases
of disputed
compensa-
tion.

same, then at the expiration of either of such notices, or at any intermediate period, upon payment or tender by the promoters of the undertaking to the mortgagee of the principal money due on such mortgage, and the interest which would become due at the end of six months from the time of giving either of such notices, together with his costs and expenses, if any, such mortgagee shall convey or release his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct.

109. If, in either of the cases aforesaid, upon such payment or tender, any mortgagee shall fail to convey or release his interest in such mortgage as directed by the promoters of the undertaking, or if he fail to adduce a good title thereto to their satisfaction, then it shall be lawful for the promoters of the undertaking to deposit in the bank, in the manner provided by this act in like cases, the principal and interest, together with the costs, if any, due on such mortgage, and also, if such payment be made before the expiration of six months' notice as aforesaid, such further interest as would at that time become due; and it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon, as well as upon such conveyance by the mortgagee, if any such be made, all the estate and interest of such mortgagee, and of all persons in trust for him, or for whom he may be a trustee, in such lands, shall vest in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession.

110. If any such mortgaged lands shall be of less value than the principal, interest, and costs secured thereon, the value of such lands, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part, and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee in satisfaction of his mortgage debt so far as the same will extend, and upon payment or tender thereof the mortgagee shall convey or release all his interest in such mortgaged lands to the promoters of the undertaking, or as they shall direct.

111. If, upon such payment or tender as aforesaid being made, any such mortgagee fail so to convey his interest in such mortgage, or to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such value or compensation in the bank, in the manner provided by this act in like cases, and every such payment or deposit shall be accepted by the mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of such mortgaged lands from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession; nevertheless, all rights and remedies possessed by the mortgagee against the mortgagor, by virtue of any bond or covenant or other obligation, other than the right to such lands, shall remain in force in respect of so much of the mortgage debt as shall not have been satisfied by such payment or deposit.

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CAP. 18.

If upon payment or tender mortgagee fail to convey, promoters may deposit money in bank and execute a deed poll.

Rights of mortgagee against mortgagor to remain in force.

112. If a part only of any such mortgaged lands be required for the purposes of the special act, and if the part so required be of less value than the principal money, interest, and costs secured on such lands, and the mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such land on the one part, and the promoters of the undertaking on the other, and if the parties aforesaid fail to agree respecting the amount of such value or compensation the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to such mortgagee in satisfaction of his mortgage debt, so far as the same will extend; and thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid; and a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage, and shall be

If part only of mortgaged lands be required, the value to be settled by agreement or determined as in other cases of disputed compensation.

Amount paid to be endorsed on mortgage deed.

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CAP. 18.

If upon pay-
ment or
tender
mortgagees
fail to con-
vey, pro-
motors may
deposit
money in
bank and
execute a
deed poll.

Rights of
mortgagees
against re-
sidue of
mortgaged
lands to
remain in
force.

In cases of
mortgagees
to be paid
off at a sti-
pulated
time, pro-
motors to
pay costs of
re-invest-
ment.

signed by the mortgagee; and a copy of such memorandum shall at the same time (if required) be furnished by the promoters of the undertaking, at their expense, to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

113. If, upon payment or tender to any such mortgagee of the amount of the value or compensation so agreed upon or determined, such mortgagee shall fail to convey or release to the promoters of the undertaking, or as they shall direct, his interest in the lands in respect of which such compensation shall so have been paid or tendered, or if he shall fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for the promoters of the undertaking to pay the amount of such value or compensation into the bank, in the manner provided by this act in the case of monies required to be deposited in such bank, and such payment or deposit shall be accepted by such mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of the portion of the mortgaged lands so required from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands shall become absolutely vested in the promoters of the undertaking, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, and in case such mortgagee were himself entitled to such possession they shall be entitled to immediate possession thereof; nevertheless, every such mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money, or the residue thereof (as the case may be), and the interest thereof respectively, upon and out of the residue of such mortgaged lands, or the portion thereof not required for the purposes of the special act, as he would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage.

114. Provided always, that in any of the cases hereinbefore provided with respect to lands subject to mortgage, if in the mortgage deed a time shall have been limited for payment of the principal money thereby secured, and under the provisions hereinbefore contained the mortgagee shall have been required to accept payment of his mortgage money, or of part thereof, at a time earlier than the time so limited, the promoters of the undertaking shall pay to such mortgagee, in addition to the sum which shall have been so paid off, all such costs and expenses as shall be

incurred by such mortgagee in respect of or which shall be incidental to the re-investment of the sum so paid off, such costs in case of difference to be taxed and payment thereof enforced in the manner herein provided with respect to the costs of conveyances; and if the rate of interest secured by such mortgage be higher than at the time of the same being so paid off can reasonably be expected to be obtained on re-investing the same, regard being had to the then current rate of interest, such mortgagee shall be entitled to receive from the promoters of the undertaking, in addition to the principal and interest hereinbefore provided for, compensation in respect of the loss to be sustained by him by reason of his mortgage money being so prematurely paid off, the amount of such compensation to be ascertained, in case of difference, as in other cases of disputed compensation; and until payment or tender of such compensation as aforesaid the promoters of the undertaking shall not be entitled, as against such mortgagee, to possession of the mortgaged lands under the provision hereinbefore contained.

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and compensation for loss of interest.

And with respect to lands charged with any rent service, rent-charge, or chief or other rent, or other payment or incumbrance not hereinbefore provided for, be it enacted as follows:

RENT-CHARGES.

115. If any difference shall arise between the promoters of the undertaking and the party entitled to any such charge upon any lands required to be taken for the purposes of the special act, respecting the consideration to be paid for the release of such lands therefrom, or from the portion thereof affecting the lands required for the purposes of the special act, the same shall be determined as in other cases of disputed compensation.

Differences to be determined as in other cases of disputed compensation.

116. If part only of the lands charged with any such rent service, rent-charge, chief or other rent, payment, or incumbrance, be required to be taken for the purposes of the special act, the apportionment of any such charge may be settled by agreement between the party entitled to such charge and the owner of the lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement the same shall be settled by two justices; but if the remaining part of the lands so jointly subject be a sufficient security for such charge, then, with consent of the owner of the lands so jointly subject, it shall be lawful for the party entitled to such charge to release therefrom the lands required, on condition or in consideration of such other lands remaining exclusively subject to the whole thereof.

If part only of lands be required the apportionment of rent-charge may be settled by agreement or by two justices.

117. Upon payment or tender of the compensation so If upon pay-

**S VICT.
CAP. 18.**

ment or
tender par-
ties fail to
release
such charge
promoters
may deposit
money in
bank and
execute a
deed poll.

Charge to
continue on
lands not
taken.

Promoters
to sub-
scribe me-
morandum
on deed
creating
such charge,
declaring
what part
of lands
have been
purchased.

agreed upon or determined to the party entitled to any such charge as aforesaid, such party shall execute to the promoters of the undertaking a release of such charge; and if he fail so to do, or if he fail to adduce good title to such charge, to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such compensation in the bank in the manner hereinbefore provided in like cases, and also, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the rent service, rent-charge, chief or other rent, payment or incumbrance, or the portion thereof in respect whereof such compensation shall so have been paid, shall cease and be extinguished.

118. If any such lands be so released from any such charge or incumbrance, or portion thereof, to which they were subject jointly with other lands, such last-mentioned lands shall alone be charged with the whole of such charge, or with the remainder thereof, as the case may be, and the party entitled to the charge shall have all the same rights and remedies over such last-mentioned lands, for the whole or for the remainder of the charge, as the case may be, as he had previously over the whole of the lands subject to such charge; and if upon any such charge or portion of charge being so released the deed or instrument creating or transferring such charge be tendered to the promoters of the undertaking for the purpose, they or two of them shall subscribe, or if they be a corporation shall affix their common seal to a memorandum of such release endorsed on such deed or instrument, declaring what part of the lands originally subject to such charge shall have been purchased by virtue of the special act, and if the lands be released from part of such charge, what proportion of such charge shall have been released, and how much thereof continues payable, or if the lands so required shall have been released from the whole of such charge, then that the remaining lands are thenceforward to remain exclusively charged therewith; and such memorandum shall be made and executed at the expense of the promoters of the undertaking, and shall be evidence in all courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

LEASES.

If part only
of lands
under lease
be required,
the rent to

And with respect to lands subject to leases, be it enacted as follows:

119. If any lands shall be comprised in a lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special act, the rent payable in respect of the lands comprised in such lease shall

be apportioned between the lands so required and the residue of such lands; and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement between the parties, such apportionment shall be settled by two justices; and after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the special act; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special act, in the same manner as they would have done in case such part only of the land had been included in the lease.

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be apportioned by agreement or by two justices. Lessee to be liable only for rent of lands not required.

Covenants of lease to be in force with regard to land not required.

120. Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works.

Lessees to be compensated by promoters.

121. If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain, or if a part only of such lands be required, compensation for the damage done to him in his tenancy by severing the lands held by him, or otherwise injuriously affecting the same; and the amount of such compensation shall be determined by two justices, in case the parties differ about the same; and upon payment or tender of the amount of such compensation all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special act.

Tenants at will, &c. to be compensated by promoters.

Amount to be determined by two justices in case of difference.

122. If any party, having a greater interest than as Parties

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claiming
compensation
under a
lease to
produce the
same.

LIMIT OF
TIME FOR
COMPULSORY
PURCHASE.INTERESTS
OMITTED TO
BE PUR-
CHASED.

Promoters
may pur-
chase inter-
ests in
lands the
purchase
whereof
have been
omitted by
mistake.

Within six
months
after notice
or recogni-
tion of right
of claimant
promoters
to pay com-
pensation,

tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the promoters of the undertaking may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power; and if, after demand made in writing by the promoters of the undertaking, such lease or grant, or such best evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

123. And be it enacted, That the powers of the promoters of the undertaking for the compulsory purchase or taking of lands for the purposes of the special act shall not be exercised after the expiration of the prescribed period, and if no period be prescribed not after the expiration of three years from the passing of the special act.

And with respect to interests in lands which have by mistake been omitted to be purchased, be it enacted as follows:

124. If, at any time after the promoters of the undertaking shall have entered upon any lands which under the provisions of this or the special act, or any act incorporated therewith, they were authorized to purchase, and which shall be permanently required for the purposes of the special act, any party shall appear to be entitled to any estate, right, or interest in or charge affecting such lands which the promoters of the undertaking shall through mistake or inadvertence have failed or omitted duly to purchase or to pay compensation for, then, whether the period allowed for the purchase of lands shall have expired or not, the promoters of the undertaking shall remain in the undisturbed possession of such lands, provided within six months after notice of such estate, right, interest, or charge, in case the same shall not be disputed by the promoters of the undertaking, or in case the same shall be disputed then within six months after the right thereto shall have been finally established by law in favour of the party claiming the same, the promoters of the undertaking shall purchase or pay compensation for the same, and shall also pay to such party, or to any other party who may establish a right thereto, full compensation for the mesne profits or interest which would have accrued to such parties respectively in respect thereof during the interval between the entry of the promoters of the undertaking thereon and the time of the payment of such purchase money or compensation by the promoters of the undertaking, so far as such mesne profits or interest may be recoverable in law or equity; and such purchase money

or compensation shall be agreed on or awarded and paid in like manner as according to the provisions of this act the same respectively would have been agreed on or awarded and paid in case the promoters of the undertaking had purchased such estate, right, interest, or charge before their entering upon such land, or as near thereto as circumstances will admit.

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CAP. 18.

to be agreed
on or award-
ed and paid
in manner
before pro-
vided.

125. In estimating the compensation to be given for any such last-mentioned lands, or any estate or interest in the same, or for any mesne profits thereof, the jury, or arbitrators, or justices, as the case may be, shall assess the same according to what they shall find to have been the value of such lands, estate, or interest, and profits, at the time such lands were entered upon by the promoters of the undertaking, and without regard to any improvements or works made in the said lands by the promoters of the undertaking, and as though the works had not been constructed.

Value of
such lands
to be esti-
mated with-
out regard
to improve-
ments made
by promo-
ters.

126. In addition to the said purchase money, compensation, or satisfaction, and before the promoters of the undertaking shall become absolutely entitled to any such estate, interest, or charge, or to have the same merged or extinguished for their benefit, they shall, when the right to any such estate, interest, or charge shall have been disputed by the company, and determined in favour of the party claiming the same, pay the full costs and expenses of any proceedings at law or in equity for the determination or recovery of the same to the parties with whom any such litigation in respect thereof shall have taken place; and such costs and expenses shall, in case the same shall be disputed, be settled by the proper officer of the court in which such litigation took place.

Promoters to
pay costs of
litigation as
to such
lands, if
right deter-
mined in
favour of
claimant.

And with respect to lands acquired by the promoters of the undertaking under the provisions of this or the special act, or any act incorporated therewith, but which shall not be required for the purposes thereof, be it enacted as follows:

SALE OF SU-
PERFLUOUS
LAND.

127. Within the prescribed period, or if no period be prescribed within ten years after the expiration of the time limited by the special act for the completion of the works, the promoters of the undertaking shall absolutely sell and dispose of all such superfluous lands, and apply the purchase money arising from such sales to the purposes of the special act; and in default thereof all such superfluous lands remaining unsold at the expiration of such period shall thereupon vest in and become the property of the owners of the lands adjoining thereto, in proportion to the extent of their lands respectively adjoining the same.

Within pre-
scribed
period lands
not wanted
to be sold,

In default to
vest in
owners of
adjoining
lands.

128. Before the promoters of the undertaking dispose of Superflu-

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ous lands' before sale to be offered to owner of lands from which they were originally taken, or to adjoining owners.

Right of pre-emption to be claimed within six weeks after offer of sale.

Declaration before justice evidence that such offer was made.

Differences as to price to be settled by arbitration.

Upon payment or tender of purchase money lands to be conveyed to the purchasers.

Receipt to be a suff.

any such superfluous lands they shall, unless such lands be situate within a town, or be lands built upon or used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed; or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands; and where more than one such person shall be entitled to such right of pre-emption such offer shall be made to such persons in succession, one after another, in such order as the promoters of the undertaking shall think fit.

129. If any such persons be desirous of purchasing such lands, then within six weeks after such offer of sale they shall signify their desire in that behalf to the promoters of the undertaking, or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease; and a declaration in writing made before a justice by some person not interested in the matter in question, stating that such offer was made and was refused, or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the country, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such lands, shall in all courts be sufficient evidence of the facts therein stated.

130. If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the promoters of the undertaking do not agree as to the price thereof, then such price shall be ascertained by arbitration, and the costs of such arbitration shall be in the discretion of the arbitrators.

131. Upon payment or tender to the promoters of the undertaking of the purchase money so agreed upon or determined as aforesaid they shall convey such lands to the purchasers thereof by deed under the common seal of the promoters of the undertaking, if they be a corporation, or if not a corporation under the hands and seals of the promoters of the undertaking or any two of the directors or managers thereof acting by the authority of the body; and a deed so executed shall be effectual to vest the lands comprised therein in the purchaser of such lands for the estate which shall so have been purchased by him; and a receipt under such common seal, or under the hands of two of the

directors or managers of the undertaking as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received.

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CAP. 18.

client dis-
charge.

132. In every conveyance of lands to be made by the promoters of the undertaking under this or the special act the word "grant" shall operate as express covenants by the promoters of the undertaking, for themselves and their successors, or for themselves, their heirs, executors, administrators, and assigns, as the case may be, with the respective grantees therein named, and the successors, heirs, executors, administrators, and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance; (that is to say,)

Effect of the
word
"grant" in
conveyances
of land by
promoters.

A covenant that, notwithstanding any act or default done by the promoters of the undertaking, they were at the time of the execution of such conveyance seised or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance in fee simple, free from all incumbrances done or occasioned by them, or otherwise for such estate or interest as therein expressed to be thereby granted, free from incumbrances done or occasioned by them :

Estate of in-
heritance in
fee simple
free from in-
cumbrances.

A covenant that the grantee of such lands, his heirs, successors, executors, administrators, and assigns, (as the case may be,) shall quietly enjoy the same against the promoters of the undertaking, and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the promoters of the undertaking and their successors from all incumbrances created by the promoters of the undertaking :

Quiet en-
joyment.

A covenant for further assurance of such lands, at the expense of such grantee, his heirs, successors, executors, administrators, or assigns, (as the case may be,) by the promoters of the undertaking, or their successors, and all other persons claiming under them :

Assurance of
lands.

And all such grantees, and their several successors, heirs, executors, administrators, and assigns respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them assign breaches of covenants, as they might do if such covenants were expressly inserted in such conveyances.

Grantees
may assign
breaches of
covenants
as if in-
serted in
conveyances.

133. And be it enacted, That if the promoters of the undertaking become possessed by virtue of this or the special act, or any act incorporated therewith, of any lands charged with the land tax, or liable to be assessed to the

LAND TAX
AND POOR'S
RATE.
—
Deficiency

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CAP. 18.

to be made
good by
promoters.

Power to
redeem land
tax.

SERVICE OF
NOTICES
UPON COM-
PANT.

TENDER OF
AMENDS.

Parties on
tender of
sufficient
amends not
to recover in
any action.

RECOVERY OF
PENALTIES.

Penalties
not other-
wise pro-
vided for
may be re-
covered by
summary
proceeding.

poor's rate, they shall from time to time, until the works shall be completed and assessed to such land tax or poor's rate, be liable to make good the deficiency in the several assessments for land tax and poor's rate by reason of such lands having been taken or used for the purposes of the works, and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special act; and on demand of such deficiency the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively; nevertheless, if at any time the promoters of the undertaking think fit to redeem such land tax, they may do so in accordance with the powers in that behalf given by the acts for the redemption of the land tax.

134. And be it enacted, That any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the promoters of the undertaking, may be served by the same being left at or transmitted through the post directed to the principal office of the promoters of the undertaking, or one of the principal offices where there shall be more than one, or being given or transmitted through the post directed to the secretary, or in case there be no secretary the solicitor of the said promoters.

135. And be it enacted, That if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or any act incorporated therewith, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

And with respect to the recovery of forfeitures, penalties, and costs, be it enacted as follows:

136. Every penalty or forfeiture imposed by this or the special act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice he shall issue a summons requiring the party complained against to appear before two justices at a time and place to be named in such summons; and every such summons shall be served on the party offending either in person or by

leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for any two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them; and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

8 Vict.
CAP. 18.

Upon proof
of offence
justices
may order
payment.

137. If, forthwith upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such justices or either of them shall issue their or his warrant of distress accordingly.

Penalties
may be
levied by
distress.

138. Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty, costs, or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress to
be levied by
sale of
goods of
party liable.

Overplus to
be repaid.

139. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed to be applied in aid of the poor's rate of such parish, or if the place wherein the offence shall have been committed shall be extra-parochial then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or if there shall not be any poor's rate therein in aid of the poor's rate of any adjoining parish or district.

Justices
may award
one half of
penalties to
informer and
remainder to
overseer of
the poor.

140. If any such sum shall be payable by the promoters of the undertaking, and if sufficient goods of the said promoters cannot be found whereon to levy the same, it may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the said promoters, and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of

Sums not
exceeding
20*l*. may be
recovered by
distress of
goods of
treasurer.

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CAP. 18.

Treasurer
may sue the
company.

Distress not
to be deem-
ed unlawful
for want of
form.

Penalties to
be sued for
within six
months.

Justices
may sum-
mon wit-
nesses.

Witnesses
making de
fault to for-
feit 5*l*.

Form or
conviction.

Proceedings
not vacated
for want of
form.

such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer or left at his residence; and if such treasurer pay any money under such distress as aforesaid he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the promoters of the undertaking coming into his custody or control, or he may sue them for the same.

141. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

142. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.

143. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special act at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

144. The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule (C.) to this act annexed.

145. No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

146. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

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CAP. 18.

Parties aggrieved by decision of justice may appeal to quarter sessions on giving security.

147. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Court may make such order as they think reasonable.

148. Provided always, and be it enacted, That notwithstanding anything herein or in the special act, or any act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special act or any act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by an act passed in the third year of the reign of her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis," and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal and upon the same terms as is provided in respect of

Receiver of the metropolitan police district to receive penalties incurred within his district.

2 & 3 VICT.
C. 71.

8 VICT.
CAP. 18.

Persons
giving false
evidence
liable to
penalties.

ACCESS TO
SPECIAL
ACT.

Copies of
special act
to be kept
at principal
office and
deposited
with clerks
of the
peace.

Inspection.

See 7 W.
IV. & 1 Vict.
c. 88. s. 3.

Penalty on
company
failing to
keep or de-
posit copies.

Scotland.

Act may be
amended or
repealed.

any order or conviction of any of the said police magistrates by the said last-mentioned act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned act.

149. And be it enacted, That any person who upon any examination upon oath under the provisions of this or the special act, or any act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows:

150. The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal, or other like undertaking, the works of which shall not be confined to one town or place, shall also within the space of such six months deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special act so printed as aforesaid; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

151. If the company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

152. And be it enacted, That this act shall not extend to Scotland.

153. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament

SCHEDULES referred to in the foregoing Act.

A.—Form of Conveyance.

I of in consideration of the sum ^{A.} of paid to me [or, as the case may be, into the bank of England [or bank of Ireland], in the name and with the privity of the accountant-general of the Court of Chancery, ex parte "the promoters of the undertaking" [naming them], or to A.B. of and C.D. of two trustees appointed to receive the same], pursuant to the [here name the special act], by the [here name the company or other promoters of the undertaking], incorporated [or constituted] by the said act, do hereby convey to the said company [or other description], their successors and assigns, all [describing the premises to be conveyed], together with all ways, rights, and appurtenances thereto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by the said act empowered to convey, to hold the premises to the said company [or other description], their successors and assigns for ever, according to the true intent and meaning of the said act. In witness whereof I have hereunto set my hand and seal, the day of in the year of our Lord

^{A.}
Form of
convey-
ance.

B.—Form of Conveyance on Chief Rent.

I of in consideration of the rent-charge to be paid to me, my heirs and assigns, as herein-after mentioned, by "the promoters of the undertaking" [naming them], incorporated [or constituted] by virtue of the [here name the special act], do hereby convey to the said company [or other description], their successors and assigns, all [describing the premises to be conveyed], together with all ways, rights, and appurtenances thereunto belonging, and all my estate, right, title, and interest in and to the same and every part thereof, to hold the said premises to the said company [or other description], their successors and assigns, for ever, according to the true intent and meaning of the said act, they the said company [or other description], their successors and assigns, yielding and paying unto me, my heirs and assigns, one clear yearly rent of by equal quarterly [or half-yearly, as agreed upon,] portions, henceforth, on the [stating the days], clear of all taxes and deductions. In witness whereof I have hereunto set my hand and seal, the day of in the year of our Lord

^{B.}
Form of
conveyance
on chief
rent.

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CAP. 18.

C.—Form of Conviction.

C.
Form of
conviction.

to wit.

BE it remembered, that on the day of
in the year of our Lord A.B. is convicted
before us C., D., two of her Majesty's justices of the peace
for the county of [here describe the offence
generally, and the time and place when and where com-
mitted], contrary to the [here name the special act].
Given under our hands and seals, the day and year first
above written. C., D.

RAILWAYS' CLAUSES, 1845.

8 VICT. cap. 20. An Act for consolidating in
One Act certain provisions usually inserted in
Acts authorizing the making of Railways.
[8th May, 1845.]

WHEREAS it is expedient to comprise in one general Preamble.
act sundry provisions usually introduced into acts of par-
liament authorizing the construction of railways, and that, ^{See also 26}
as well for the purpose of avoiding the necessity of repeat- ^{& 27 Vict. c}
ing such provisions in each of the several acts relating to ^{92.}
such undertakings, as for ensuring greater uniformity in
the provisions themselves: and whereas a bill is now
pending in parliament, intituled "An Act for consolidat- ^{s Vict. c. 18.}
ing in one Act certain Provisions usually inserted in Acts
authorizing the taking of Lands for Undertakings of a
public Nature," and which is intended to be called "The
Lands' Clauses Consolidation Act, 1845:"

1. May it therefore please your Majesty that it may be Operation
enacted; and be it enacted by the Queen's most excellent of this act
Majesty, by and with the advice and consent of the Lords confined to
spiritual and temporal, and Commons, in this present future rail-
Parliament assembled, and by the authority of the same, ways.
That this act shall apply to every railway which shall by
any act which shall hereafter be passed be authorized to
be constructed, and this act shall be incorporated with
such act; and all the clauses and provisions of this act,
save so far as they shall be expressly varied or excepted by
any such act, shall apply to the undertaking authorized
thereby, so far as the same shall be applicable to such
undertaking, and shall, as well as the clauses and provi-
sions of every other act which shall be incorporated with
such act, form part of such act, and be construed together
therewith as forming one act.

8 VICT.
CAP. 20.

INTERPRETA-
TIONS IN
THIS ACT.

"Special
act."
"Pre-
scribed."

"The
lands."
"The under-
taking."

INTERPRETA-
TIONS IN
THIS AND
THE SPECIAL
ACT.

Number.

Gender.

"Lands."

"Lease."

"Toll."

"Goods."

"Month."

"Superior
courts."

"Oath."

"County."

And with respect to the construction of this act and of other acts to be incorporated therewith, be it enacted as follows:

2. The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed authorizing the construction of a railway, and with which this act shall be so incorporated as aforesaid; and the word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act; and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the lands" shall mean the lands which shall by the special act be authorized to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the railway and works, of whatever description, by the special act authorized to be executed.

3. The following words and expressions, both in this and the special act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include also the singular number: Words importing the masculine gender only shall include females:

The word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure:

The word "lease" shall include an agreement for a lease:

The word "toll" shall include any rate or charge or other payment payable under the special act for any passenger, animal, carriage, goods, merchandize, articles, matters, or things conveyed on the railway:

The word "goods" shall include things of every kind conveyed upon the railway:

The word "month" shall mean calendar month:

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require:

The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath:

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:

The word "sheriff" shall include under sheriff or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff or clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate:

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CAP. 20.

"The
sheriff."
"The clerk
of the
peace."

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands, being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together:

"Justice."

"Two jus-
tices."

Where under the provisions of this or the special act any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, or any act incorporated therewith, would be enabled to sell and convey lands to the company:

"Owner."

The expression "the company" shall mean the company or party which shall be authorized by the special act to construct the railway:

"The com-
pany."

The expression "the railway" shall mean the railway and works by the special act authorized to be constructed:

"The rail-
way."

The expression "the Board of Trade" shall mean the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations:

"Board of
Trade."

8 VICT.
CAP. 20.

"The
bank."

The expression "the bank" shall mean the bank of England, where the same shall relate to monies to be paid or deposited in respect of lands situate in England; and shall mean the bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland:

"Turnpike
road," Ire-
land.

The expression "turnpike road" shall, when applied to any road in Ireland, include any road upon which her Majesty's mails are or shall be carried in mail carriages; or such other roads as the commissioners of public works in Ireland shall consider to require arches of greater width or height than by this act is required for public carriage roads:

"Surveyor,"
Ireland.

The expression "surveyor," applied to a road or highway, shall, as to railways in Ireland, include the county surveyor:

"Overseers
of the poor,"
Ireland.

The expression "overseers of the poor," when applied to Ireland, shall include the poor law guardians of the electoral division and the clerk of the guardians of the union through which such railway may pass.

Short title
of this act.

4. And be it enacted, That in citing this act in other acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Railways' Clauses Consolidation Act, 1845."

Form in
which por-
tions of this
act may be
incorporated in
other acts.

5. And whereas it may be convenient, in some cases, to incorporate with acts hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That, for the purpose of making any such incorporation, it shall be sufficient in any such act to enact that the clauses of this act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act, in the words introductory to the enactment with respect to such matter) shall be incorporated with such act, and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

CONSTRU-
TION OF
RAILWAY.

Power
given by
special act
to construct
railway and
take lands,
to be subject
to the pro-

And with respect to the construction of the railway and the works connected therewith, be it enacted as follows:

6. In exercising the power given to the company by the special act to construct the railway, and to take lands for that purpose, the company shall be subject to the provisions and restrictions contained in this act and in the said Lands' Clauses Consolidation Act; and the company shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the pur-

poses of the railway, or injuriously affected by the construction thereof, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other parties, by reason of the exercise, as regards such lands, of the powers by this or the special act, or any act incorporated therewith, vested in the company; and, except where otherwise provided by this or the special act, the amount of such compensation shall be ascertained and determined in the manner provided by the said Lands' Clauses Consolidation Act for determining questions of compensation with regard to lands purchased or taken under the provisions thereof, and all the provisions of the said last-mentioned act shall be applicable to determining the amount of any such compensation, and to enforcing the payment or other satisfaction thereof.

**8 VICT.
CAP. 20.**
visions of
this act, and
the Lands'
Clauses
Consolida-
tion Act.

7. If any omission, mis-statement, or erroneous description shall have been made of any lands, or of the owners, leasees, or occupiers of any lands, described on the plans or books of reference mentioned in the special act, or in the schedule to the special act, it shall be lawful for the company, after giving ten days' notice to the owners of the lands affected by such proposed correction, to apply to two justices for the correction thereof; and if it shall appear to such justices that such omission, mis-statement, or erroneous description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, and in what respect any such matter shall have been mis-stated or erroneously described; and such certificate shall be deposited with the clerks of the peace of the several counties in which the lands affected thereby shall be situate, and shall also be deposited with the parish clerks of the several parishes in England, and with the postmasters of the post towns in or nearest to such parishes in Ireland, in which the lands affected thereby shall be situate; and such certificate shall be kept by such clerks of the peace, parish clerks, and postmasters respectively along with the other documents to which they relate; and thereupon such plan, book of reference, or schedule shall be deemed to be corrected according to such certificate; and it shall be lawful for the company to make the works in accordance with such certificate.

Errors and
omissions
in plans, &c
mentioned
in special
act may be
corrected by
two justices:

Certificate
of justices
to state par-
ticulars of
such omis-
sion and to
be deposited
with clerks
of the peace,
parish
clerks, and
post-
masters.

8. It shall not be lawful for the company to proceed in the execution of the railway unless they shall have previously to the commencement of such work deposited with the clerks of the peace of the several counties in or through which the railway is intended to pass a plan and section of all such alterations from the original plan and section as

Works not
to be pro-
ceeded with
until plans
of all altera-
tions au-
thorized by
parliament.

8 VICT.
CAP. 30.

have been
deposited.

Clerks of
the peace,
&c. to re-
ceive plans
of altera-
tions, and
allow in-
spection.

7 W. 4. & 1
Vict. c. 55.
s. 3.

Copies of
plans, &c. or
of altera-
tions to be
evidence.

Company
not to de-
viate from
levels de-
scribed in
section
more than
five feet, or
in towns,
&c. two feet,
without
consent of
owners, &c.
See 26 & 27
Vict. c. 92,
s. 4.

shall have been approved of by parliament, on the same scale and containing the same particulars as the original plan and section of the railway, and shall also have deposited with the clerks of the several parishes in England, and the postmasters of the post towns in or nearest to such parishes in Ireland, in or through which such alterations shall have been authorized to be made, copies or extracts of or from such plans and sections as shall relate to such parishes respectively.

9. The said clerks of the peace, parish clerks, and postmasters shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall retain the same, as well as the said original plans and sections, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of the original plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

10. True copies of the said plans and books of reference, or of any alteration or correction thereof, or extract therefrom, certified by any such clerk of the peace, which certify that such clerk of the peace shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere, as evidence of the contents thereof.

11. In making the railway it shall not be lawful for the company to deviate from the levels of the railway, as referred to the common datum line described in the section approved of by parliament and as marked on the same, to any extent exceeding in any place five feet, or, in passing through a town, village, street, or land continuously built upon, two feet, without the previous consent in writing of the owners and occupiers of the land in which such deviation is intended to be made; or in case any street or public highway shall be affected by such deviation, then the same shall not be made without the like consent of the trustees or commissioners having the control of such street or public highway, or, if there be no such trustees or commissioners, without the like consent of two or more justices of the peace in petty sessions assembled for that purpose, and acting for the district in which such street or public highway may be situated, or without the like consent of the commissioners of any public sewers, or the proprietors of any canal, navigation, gas works, or water

works affected by such deviation : provided always, that it shall be lawful for the company to deviate from the said levels to a further extent without such consent as aforesaid, by lowering solid embankments or viaducts, provided that the requisite height of headway as prescribed by act of parliament be left for roads, streets, or canals passing under the same : provided also, that notice of every petty sessions to be holden for the purpose of obtaining such consent of two justices as is hereinbefore required shall, fourteen days previous to the holding of such petty sessions, be given in some newspaper circulating in the county, and also be affixed upon the door of the parish church in which such deviation or alteration is intended to be made, or, if there be no church, some other place to which notices are usually affixed.

12. Before it shall be lawful for the company to make any greater deviation from the level than five feet, or, in any town, village, street, or land continuously built upon, two feet, after having obtained such consent as aforesaid, it shall be incumbent on the company to give notice of such intended deviation by public advertisement, inserted once at least in two newspapers, or twice at least in one newspaper, circulating in the district or neighbourhood where such deviation is intended to be made, three weeks at least before commencing to make such deviation ; and it shall be lawful for the owner of any lands prejudicially affected thereby, at any time before the commencement of the making of such deviation, to apply to the Board of Trade, after giving ten days' notice to the company, to decide whether, having regard to the interests of such applicants, such proposed deviation is proper to be made ; and it shall be lawful for the Board of Trade, if they think fit, to decide such question accordingly, and by their certificate in writing either to disallow the making of such deviation or to authorize the making thereof, either simply or with any such modification as shall seem proper to the Board of Trade : and after any such certificate shall have been given by the Board of Trade it shall not be lawful for the company to make such deviation, except in conformity with such certificate.

13. Where in any place it is intended to carry the railway on an arch or arches or other viaduct, as marked on the said plan or section, the same shall be made accordingly ; and where a tunnel is marked on the said plan or section as intended to be made at any place, the same shall be made accordingly, unless the owners, lessees, and occupiers of the land in which such tunnel is intended to be made shall consent that the same shall not be so made.

14. It shall not be lawful for the company to deviate

8 VICT.
CAP. 20.

Company may lower embankments or viaducts.

Notice of petty sessions for obtaining consent of justices.

Public notice to be given previous to making greater deviations.

Owners of adjoining lands may appeal to the Board of Trade against such deviations.

Viaducts, tunnels, &c. to be made as marked on deposited plans.

Limiting

8 VICT.
CAP. 20.

deviations
from works
in plan.

Inclination
or gradients
of railway.

Radius of
curves.

Tunnels and
viaducts.

Limits of
deviation
from line
marked on
plans.

Deviation
not to ex-
tend into
lands of
persons not
mentioned
in book of
reference.

Company
may execute
works.

from or alter the gradients, curves, tunnels, or other engineering works described in the said plan or section, except within the following limits, and under the following conditions; (that is to say,)

Subject to the above provisions in regard to altering levels, it shall be lawful for the company to diminish the inclination or gradients of the railway to any extent, and to increase the said inclination or gradients as follows: (that is to say,) in gradients of an inclination not exceeding one in a hundred, to any extent not exceeding ten feet per mile, or to any further extent which shall be certified by the Board of Trade to be consistent with the public safety, and not prejudicial to the public interest; and in gradients of or exceeding the inclination of one in a hundred, to any extent not exceeding three feet per mile, or to any further extent which shall be so certified by the Board of Trade as aforesaid:

It shall be lawful for the company to diminish the radius of any curve described in the said plan to any extent which shall leave a radius of not less than half a mile, or to any further extent authorized by such certificate as aforesaid from the Board of Trade:

It shall be lawful for the company to make a tunnel, not marked on the said plan or section, instead of a cutting, or a viaduct instead of a solid embankment, if authorized by such certificate as aforesaid from the Board of Trade.

15. It shall be lawful for the company to deviate from the line delineated on the plans so deposited, provided that no such deviation shall extend to a greater distance than the limits of deviation delineated upon the said plans, nor to a greater extent in passing through a town, village, or lands continuously built upon than ten yards, or elsewhere to a greater extent than one hundred yards from the said line, and that the railway by means of such deviation be not made to extend into the lands of any person, whether owner, lessee, or occupier, whose name is not mentioned in the books of reference, without the previous consent in writing of such person, unless the name of such person shall have been omitted by mistake, and the fact that such omission proceeded from mistake shall have been certified in manner herein or in the special act provided for in cases of unintentional errors in the said books of reference.

16. Subject to the provisions and restrictions in this and the special act, and any act incorporated therewith, it shall be lawful for the company, for the purpose of constructing the railway, or the accommodation works con-

ected therewith, hereinafter mentioned, to execute any of the following works ; (that is to say,)

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CAP. 20.

They may make or construct, in, upon, across, under, or over any lands, or any streets, hills, valleys, roads, railroads, or tram roads, rivers, canals, brooks, streams, or other waters, within the lands described in the said plans, or mentioned in the said books of reference or any correction thereof, such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings, and fences as they think proper ;

Construct
inclined
planes, &c.

They may alter the course of any rivers not navigable, brooks, streams, or watercourses, and of any branches of navigable rivers, such branches not being themselves navigable, within such lands, for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under the same, and divert or alter, as well temporarily as permanently, the course of any such rivers or streams of water, roads, streets, or ways, or raise or sink the level of any such rivers or streams, roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as they may think proper ;

Alter course
of rivers, &c

They may make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway ;

Make
drains, &c

They may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences as they think proper ;

Erect ware-
houses, &c.

They may, from time to time alter, repair, or discontinue the beforementioned works or any of them, and substitute others in their stead ; and

Alter and
repair
works.

They may do all other acts necessary for making, maintaining, altering, or repairing, and using the railway :

And do
other acts.

Provided always, that in the exercise of the powers by this or the special act granted the company shall do as little damage as can be, and shall make full satisfaction in manner herein and in the special act, and any act incorporated therewith, provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers.

Company to
do as little
damage as
can be, and
give com-
pensation.

17. It shall not be lawful for the company to construct on the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, where and so far up the same as the tide flows and reflows, any work, or to construct any railway or bridge across any

Company
not to con-
struct
works below
high-water
mark with-
out consent

8 VICT.
CAP. 20.

of commis-
sioners of
woods, and
Board of
Trade.

"Board of
Trade," see
25 & 26
Vict. c. 69,
s. 6.

"Board of
Trade."

Works not
to be altered
without like
consent.

"Board of
Trade."

Company
may alter
position of
water and
gas pipes,
&c.

under super-
intendence
of water or
gas com-
pany.

Notice.

creek, bay, arm of the sea, or navigable river, where and so far up the same as the tide flows and reflows, without the previous consent of her Majesty, her heirs and successors, to be signified in writing under the hands of two of the commissioners of her Majesty's woods, forests, land revenues, works, and buildings, and of the lord high admiral of the united kingdom of Great Britain and Ireland, or the commissioners for executing the office of lord high admiral aforesaid for the time being, to be signified in writing under the hand of the secretary of the Admiralty, and then only according to such plan and under such restrictions and regulations as the said commissioners of her Majesty's woods, forests, land revenues, works, and buildings, and the said lord high admiral, or the said commissioners, may approve of, such approval being signified as last aforesaid; and where any such work, railway, or bridge shall have been constructed it shall not be lawful for the company at any time to alter or extend the same without obtaining, previously to making any such alteration or extension, the like consents or approvals; and if any such work, railway, or bridge shall be commenced or completed contrary to the provisions of this act, it shall be lawful for the said commissioners of her Majesty's woods, forests, land revenues, works, and buildings, or the said lord high admiral, or the said commissioners for executing the office of lord high admiral, to abate and remove the same, and to restore the site thereof to its former condition, at the cost and charge of the company; and the amount thereof may be recovered in the same manner as a penalty is recoverable against the company.

18. It shall be lawful for the company, for the purpose of constructing the railway, to raise, sink, or otherwise alter the position of any of the watercourses, water pipes, or gas pipes belonging to any of the houses adjoining or near to the railway, and also the mains and other pipes laid down by any company or society who may furnish the inhabitants of such houses or places with water or gas, and also to remove all other obstructions to such construction, so as the same respectively be done with as little detriment and inconvenience to such company, society, or inhabitants as the circumstances will admit, and be done under the superintendence of the company to which such water pipes or gas pipes belong, and of the several commissioners or trustees, or persons having control of the pavements, sewers, roads, streets, highways, lanes, and other public passages and places within the parish or district where such mains, pipes, or obstructions shall be situate, or of their surveyor, if they or he think fit to attend, after receiving not less than forty-eight hours' notice for that purpose.

19. Provided always, that it shall not be lawful for the company to remove or displace any of the mains or pipes (other than private service pipes), syphons, plugs, or other works belonging to any such company or society, or to do anything to impede the passage of water or gas into or through such mains or pipes, until good and sufficient mains or pipes, syphons, plugs, and all other works necessary or proper for continuing the supply of water or gas as sufficiently as the same was supplied by the mains or pipes proposed to be removed or displaced, shall, at the expense of the company, have been first made and laid down in lieu thereof, and be ready for use, in a position as little varying from that of the pipes or mains proposed to be removed or displaced as may be consistent with the construction of the railway, and to the satisfaction of the surveyor or engineer of such water or gas company or society, or, in case of disagreement between such surveyor or engineer and the company, as a justice shall direct.

8 VICT.
CAP 20.

Company not to disturb pipes until they have laid down others for continuing the supply of water or gas.

20. It shall not be lawful for the company to lay down any such pipes contrary to the regulations of any act of Parliament relating to such water or gas company or society, or to cause any road to be lowered for the purposes of the railway, without leaving a covering of not less than eighteen inches from the surface of the road over such mains or pipes.

Pipes not to be laid contrary to acts, and 18 inches surface to be retained.

21. The company shall make good all damage done to the property of the water or gas company or society, by the disturbance thereof, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with the mains, pipes, or works of such water or gas company or society, or with the private service pipes of any person supplied by them with water.

Company to make good all damage done to property of water or gas company.

22. If it shall be necessary to construct the railway or any of the works over any mains or pipes of any such water or gas company or society, the company shall, at their own expense, construct and maintain a good and sufficient culvert over such main or pipe, so as to leave the same accessible for the purpose of repairs.

When railway crosses pipes, company to make a culvert.

23. If by any such operations as aforesaid the company shall interrupt the supply of any water or gas they shall forfeit twenty pounds for every day that such supply shall be so interrupted, and such penalty shall be appropriated to the benefit of the poor of the parish in which such obstruction shall occur, in such manner as the overseers of the poor of the parish shall direct.

If company obstruct supply of water or gas to forfeit 20l. per day.

24. If any person wilfully obstruct any person acting under the authority of the company in the lawful exercise of their power, in setting out the line of the railway, or

Persons obstructing construction of railway.

8 VICT.
CAP. 80.

way liable
to penalty of
5*l*.

DRAINAGE OF
LANDS IN
IRELAND.

1 & 2 W.
IV. c. 57.

5 & 6 Vict.
c. 89.

The com-
pany from
time to time
to submit to
the drainage
commission-
ers in Ire-
land plans,
&c. of the
railway.

pull up or remove any poles or stakes driven into the ground for the purpose of so setting out the line of the railway, or deface or destroy any marks made for the same purpose, he shall forfeit a sum not exceeding five pounds for every such offence.

And whereas there are large tracts of land in Ireland subject to flood and injury by water, and the rivers, streams, and watercourses are in many places obstructed by shoals, insufficient bridges, culverts, weirs, and other works, whereby the waters thereof are elevated above their natural level: and whereas an act of parliament was passed in the second year of the reign of his late Majesty King William the Fourth, intituled, "An Act to empower Landed Proprietors in Ireland to sink, embank, and remove Obstructions in Rivers:" and whereas another act was passed in the sixth year of the reign of her present Majesty, intituled, "An Act to promote the Drainage of Lands, and improvement of Navigation and Water-power in connexion with such Drainage, in Ireland;" and by the said last-mentioned act public commissioners were appointed to carry the said last-recited act into execution: and whereas it is essential, for carrying into effect the purposes of the said acts, and for the improvement of agriculture, that ample provision be made in all railway works in Ireland for the free and uninterrupted passage of the waters at such level as will be sufficient not only for the present but all future discharge of the waters from lands crossed by or being on either side of such works, and that the bridges of railways crossing all watercourses, rivers, lakes, or estuaries which are or hereafter may be made navigable shall be so constructed as to admit of the commodious navigation of the same: therefore, with respect to the provision to be made for the drainage of land in Ireland which may be crossed by the railway, and for the protection of the navigation connected therewith, be it enacted as follows:

25. If the special act shall authorize the construction of a railway in Ireland, the company shall and they are hereby required, from time to time, before proceeding to construct any portion of the railway, to submit to the commissioners acting in execution of the said act of the sixth year of her present Majesty, or any act amending the same, such plans, sections, and surveys as shall be necessary to enable the said commissioners to decide upon the number and adequacy of the waterways of all bridges, culverts, tunnels, watercourses, and other works across the line of such portion as aforesaid of the railway, for the free and uninterrupted discharge of the waters from all lands crossed by or lying on either side of or near the

railway, at such level as shall in the opinion of the said commissioners be sufficient for the present and prospective drainage and improvement of such lands, and (in cases of rivers, lakes, estuaries, or watercourses, which are now or may be capable of being made navigable) upon the height and adequacy of all bridges and works crossing the same, for the commodious navigation thereof.

8 Vicr.
CAP. 20.

26. The said commissioners shall and they are hereby required, without any unnecessary delay, to investigate, by such means as to them shall seem fit, the adequacy of all such works for such purposes as aforesaid, and to decide and certify, by a writing under their hands, or the hands of any two of them, the number, situation, and least possible dimensions as to breadth, depth, and height of the several openings of such bridges, culverts, tunnels, or other works connected with such portion of the railway as aforesaid, which shall be necessary for the passage of water, or for navigation under or across such railway; and it shall not be lawful for the company to proceed with the execution of any of the works connected with any portion of the railway without having first obtained such a certificate as aforesaid respecting such portion of the railway, under the hands of the said commissioners or any two of them, as aforesaid; nor shall the company be at liberty to deviate from such certificate in respect to such works, nor to execute the same otherwise than in conformity therewith, without the previous approbation in writing of the said commissioners.

Such commissioners to investigate and report on the works necessary for drainage.

Works not to be proceeded with until certificate obtained.

27. It shall be lawful for the said commissioners to apply by petition in a summary way to the Court of Chancery, complaining of any omission on the part of the company to submit such plans, sections, and surveys to the said commissioners as aforesaid, or of the omission to construct any such bridge, culvert, tunnel, or other works for the passage of water, in such manner as shall be so certified by the said commissioners, and thereupon it shall be lawful for the said court to direct such works to be made or constructed by the company in such manner as shall be conformable to the certificate of the said commissioners, and to the said court shall seem necessary or proper, and to make from time to time such further or other order for restraining the company or any other persons from proceeding with any of the works connected with such portion of railway, except in conformity with the certificate of the said commissioners, and to issue any writ of injunction for the purpose aforesaid; and such court shall have power to award costs to be paid by such company or persons.

Drainage commissioners may make summary application to the Court of Chancery to enforce the execution of such works.

28. Nothing in this or the special act shall extend or be Powers of

8 VICT.
CAP. 20.

drainage
commission-
ers not to be
affected by
this act.

The drain-
age commis-
sioners in
Ireland may
decide ques-
tions as to
the execu-
tion of
works, or
execute
works for
carrying
water-
courses
across the
railway.

construed to prejudice or affect the powers or authorities of the commissioners acting in execution of the said act of the sixth year of her present Majesty, but all such powers shall be in full force as to the formation of any cut, river, or watercourse across the railway, but such powers shall not be exercised so as to prevent or obstruct the working or using of the railway.

29. And whereas it is expedient to encourage the establishment of manufactories to be worked by water power in Ireland; be it therefore enacted, That whenever it may be requisite for the formation of a watercourse for manufacturing purposes to construct an arch, culvert, tunnel, or watercourse beneath or an aqueduct above any railway in Ireland, and that differences shall have arisen between the directors of such railway and the person interested in obtaining the water power, either as to the manner in which such works shall be executed, or the amount of compensation which should be paid, it shall be lawful to refer the questions in issue to the commissioners acting under the said recited act of the fifth and sixth years of the reign of her Majesty Queen Victoria, and their decision thereon shall be final and conclusive; and if the said commissioners shall be of opinion that the proposed works can be executed without injury to the railway, and if they shall think proper so to do, they may undertake the execution of so much of the said works as shall be in connexion with such railway, at the expense of the parties for whose benefit the watercourse shall be made, with the same powers and authorities as are given by the said act for the execution of any works for drainage.

TEMPORARY
USE OF
LANDS.

Company
may occupy
temporarily
private
roads within
five hundred
yards of the
railway.

And with respect to the temporary occupation of lands near the railway during the construction thereof, be it enacted as follows:

30. Subject to the provisions herein and in the special act contained, it shall be lawful for the company, at any time before the expiration of the period by the special act limited for the completion of the railway, to enter upon and use any existing private road, being a road gravelled or formed with stones or other hard materials, and not being an avenue or a planted or ornamental road, or an approach to any mansion house, within the prescribed limits, if any, or, if no limits be prescribed, not being more than five hundred yards distant from the centre of the railway as delineated on the plans; but before the company shall enter upon or use any such existing road they shall give three weeks' notice of their intention to the owners and occupiers of such road, and of the lands over which the same shall pass, and shall in such notice state the time during which, and the purposes for which,

Notice to
owners.

they intend to occupy such road, and shall pay to the owners and occupiers of such road, and of the lands through which the same shall pass, such compensation for the use and occupation of such road, either in a gross sum of money or by half-yearly instalments, as shall be agreed upon between such owners and occupiers respectively and the company, or in case they differ about the compensation the same shall be settled by two justices in the same manner as any compensation not exceeding fifty pounds is directed to be settled by the said Lands' Clauses Consolidation act.

8 VICT.
CAP. 30.

Compensation.

31. It shall be lawful for the owners and occupiers of any such road, and of the lands over which the same passes, within ten days after the service of the aforesaid notice, by notice in writing to the company to object to the company making use of such road, on the ground that other roads, such as the company are hereinbefore authorized to use for the purposes aforesaid, or that some public road, would be more fitting to be used for the same; and upon the objection being so made such proceedings may be had as are hereinafter mentioned with respect to lands temporarily occupied by the company, in respect of which three weeks' notice is hereinafter required to be given, and in the same manner as if in the provisions relative to such proceedings the word road or roads, or the words road and the land over which the same passes, as the case may require, had been substituted in such provisions for the word lands.

Owners and occupiers of roads and lands may object that other roads should be taken.

32. Subject to the provisions herein and in the special act contained, it shall be lawful for the company, at any time before the expiration of the period by the special act limited for the completion of the railway, without making any previous payment, tender, or deposit, to enter upon any lands within the prescribed limits, or, if no limits be prescribed, not being more than two hundred yards distant from the centre of the railway as delineated on the plans, and not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than the prescribed distance, or if no distance be prescribed, then not nearer than five hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of that portion of the railway, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes; (that is to say,)

Company may take temporary possession of lands for certain purposes without previous payment of price.

For the purpose of taking earth or soil by side cuttings therefrom;

8 VIOT.
CAP. 20.

TEMPORARY
USE OF
LANDS.

For the purpose of depositing spoil thereon ;
For the purpose of obtaining materials therefrom for
the construction or repair of the railway or such ac-
commodation works as aforesaid ; or

For the purpose of forming roads thereon to or from or
by the side of the railway :

And in exercise of the powers aforesaid it shall be lawful
for the company to deposit and also to manufacture and
work upon such lands materials of every kind used in
constructing the railway, and also to dig and take from
out of any such lands any clay, stone, gravel, sand, or
other things that may be found therein useful or proper
for constructing the railway or any such roads as aforesaid,
and for the purposes aforesaid to erect thereon workshops,
sheds, and other buildings of a temporary nature : pro-
vided always, that nothing in this act contained shall ex-
empt the company from an action for nuisance or other
injury, if any done, in the exercise of the powers herein-
before given, to the lands or habitations of any party other
than the party whose lands shall be so taken or used for
any of the purposes aforesaid : provided also, that no stone
or slate quarry, brick field, or other like place, which at
the time of the passing of the special act shall be com-
monly worked or used for getting materials therefrom for
the purpose of selling or disposing of the same, shall be
taken or used by the company, either wholly or in part,
for any of the purposes lastly hereinbefore mentioned.

Company
liable to
action for
nuisance.

No quarry
or brick
field to be
taken.

Company
to give no-
tice to own-
ers and
occupiers
previous to
taking such
temporary
possession.

33. In case any such lands shall be required for spoil
banks or for side cuttings, or for obtaining materials for
the construction or repair of the railway, the company
shall before entering thereon (except in the case of acci-
dent to the railway requiring immediate reparation) give
three weeks' notice in writing to the owners and occupiers
of such lands of their intention to enter upon the same for
such purposes ; and in case the said lands are required for
any of the other purposes hereinbefore mentioned the
company shall (except in the cases aforesaid) give ten
days' like notice thereof, and the company shall in such
notices respectively state the substance of the provisions
hereinafter contained respecting the right of such owner
or occupier to require the company to purchase any such
lands, or to receive compensation for the temporary occu-
pation thereof, as the case may be.

Service of
notices on
owners and
occupiers of
lands.

34. The said notice shall either be served personally on
such owners and occupiers, or left at their last usual place
of abode, if any such can, after diligent inquiry, be found,
and in case any such owner shall be absent from the
United Kingdom, or cannot be found after diligent in-
quiry, shall also be left with the occupier of such lands,

or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

35. In any case in which a notice of three weeks is hereinbefore required to be given it shall be lawful for the owner or occupier of the lands therein referred to, within ten days after the service of such notice, by notice in writing to the company to object to the company making use of such lands, either on the ground that the lands proposed to be taken for the purposes aforesaid, or some part thereof, or of the materials contained therein, are essential to be retained by such owner, in order to the beneficial enjoyment of other neighbouring lands belonging to him, or on the ground that other lands lying contiguous or near to those proposed to be taken would be more fitting to be used for such purposes by the company; and upon objection being so made such proceedings may be had as hereinafter mentioned.

36. If the objection so made be on the ground that the lands proposed to be taken, or some part thereof, or of the materials contained therein, are essential to be retained by the owner in order to the beneficial enjoyment of other neighbouring lands belonging to him, it shall be lawful for any justice, on the application of such owner, to summon the company to appear before two justices at a time and place to be named in the summons, such time not being later than the expiration of the said twenty-one days' notice; and on the appearance of the company, or, in their absence, upon proof of due service of the summons, it shall be lawful for such justices to inquire into the truth of such ground of objection; and if it appear to such justices that for some special reason, to be stated in the order after mentioned, the lands so proposed to be taken, or any part thereof, or of the materials contained therein, are essential to be retained by the owner of such lands in order to the beneficial enjoyment of other neighbouring lands belonging to him, and ought not therefore to be taken or used by the company, it shall be lawful for such justices, by writing under their hands, to order that the lands so proposed to be taken, or some part thereof, or of the materials contained therein, to be specified in such order, shall not be taken or used by the company, and after service of such order on the company it shall not be lawful for them to take or use, without the previous consent in writing of the owner thereof, any of the lands or materials which by such order they are ordered not to take or use.

37. If the objection so made as aforesaid be on the ground that other lands lying contiguous to those proposed to be taken, and being sufficient in quantity, and such as

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Owner may object that other lands ought to be taken.

Owner may summon company before two justices.

Upon appearance or proof of service justices to inquire into grounds of objection,

and may order that the lands and materials shall not be taken.

If owners object that other lands ought to be

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taken, jus-
tices may
summon
company and
owners of
such lands,

and deter-
mine which
lands shall
be taken.

Justices
may ad-
journ the
inquiry, and
summon
other
owners be-
fore them,
and deter-
mine finally
which lands
shall be
used.

Company
before en-
tering upon
lands to
give sureties
if required
for payment
of compensa-
tion.

Company
before

the company are hereinbefore authorized to use for the purposes aforesaid, would be more fitting to be used by the company, and if in such case the company shall refuse to occupy such other lands in lieu of those mentioned in the notice, it shall be lawful for any justice, on the application of such owner or occupier, to summon the company and the owners and occupiers of such other lands to appear before two justices at a time and place to be named in such summons, such time not being more than fourteen days after such application nor less than seven days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to determine summarily which of the said lands shall be used by the company for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly.

38. If in the case last mentioned it shall appear to such justices, upon the inquiry before them, that the lands of any other party not summoned before them, being sufficient in quantity, and such as the company are hereinbefore authorized to take or use for the purposes aforesaid, would be more fitting to be used by the company than the lands of the person who shall have been so summoned as aforesaid, it shall be lawful for the said justices to adjourn such inquiry, and to summon such other person to appear before them at any time, not being more than fourteen days from such inquiry nor less than seven days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, on proof of due service of the summons, it shall be lawful for such justices to determine finally which lands shall be used for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly.

39. Before entering, under the provisions hereinbefore contained, upon any such lands as shall be required for spoil banks or for side cuttings, or for obtaining materials or forming roads as aforesaid, the company shall, if required by the owner or occupier thereof, seven days at least before the expiration of the notice to take such lands as hereinbefore mentioned, find two sufficient persons, to be approved of by a justice, in case the parties differ, who shall enter into a bond to such owner or occupier in a penalty of such amount as shall be approved of by such justice, in case the parties differ, conditioned for the payment of such compensation as may become payable in respect of the same in manner herein mentioned.

40. Before the company shall use any such lands for any of the purposes aforesaid, they shall, if required so to

do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be required by the said owner or occupier for the convenient occupation of such lands, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner, in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads, and in case of any difference between the owners or occupiers of such roads and lands and the company as to the necessity for such fences and gates, such fences and gates as any two magistrates shall deem necessary for the purposes aforesaid, on application being made to them in like manner as hereinbefore is provided in respect to the use of such roads.

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using such
lands to se-
parate them
from ad-
joining
lands and
put up
fences and
gates.

41. That if any land shall be taken or used by the company, under the provisions of this or the special act, for the purpose of getting materials therefrom for the construction or repair of the railway, or the accommodation works connected therewith, they shall work the same in such manner as the surveyor or agent of the owner of such land shall direct, or, in case of disagreement between such surveyor or agent and the company, in such manner as any justice shall direct, on the application of either party, after notice of the hearing the application shall have been given to the other party.

Lands
taken for
getting ma-
terials, &c.
to be worked
as the sur-
veyor of
owner may
direct.

42. In all cases in which the company shall in exercise of the powers aforesaid enter upon any lands for the purpose of making spoil banks or side cuttings thereon, or for obtaining therefrom materials for the construction or repair of the railway, it shall be lawful for the owners or occupiers of such lands, or parties having such estates or interests therein as, under the provisions in the said Lands' Clauses Consolidation Act mentioned, would enable them to sell or convey lands to the company, at any time during the possession of any such lands by the company, and before such owners or occupiers shall have accepted compensation from the company in respect of such temporary occupation, to serve a notice in writing on the company, requiring them to purchase the said lands, or the estate and interests therein capable of being sold and conveyed by them respectively; and in such notice such owners or occupiers shall set forth the particulars of such their estate or interest in such lands, and the amount of their claim in respect thereof; and the company shall thereupon be bound to purchase the said lands, or the estate and interest therein capable of being sold and conveyed by the parties serving such notice.

Owners of
lands may
compel
company to
purchase
lands so
temporarily
occupied.

43. In any of the cases aforesaid, where the company

Company

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to make compensation for temporary occupation of lands,

and pay a rent to be fixed by two justices;

and full value of all materials taken.

Compensation to be ascertained under the 8 Vict. c. 18.

LANDS FOR ADDITIONAL STATIONS.

Company may purchase land for additional stations, &c.

and for making roads.

shall not be required to purchase such lands, and in all other cases where they shall take temporary possession of lands by virtue of the powers herein or in the special act granted, it shall be incumbent on the company, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of his lands, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent to be fixed by two justices, in case the parties differ, and shall also within six months after they shall have ceased to occupy the said lands, and not later than six months after the expiration of the time by the special act limited for the completion of the railway, pay to such owner and occupier, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers herein or in the special act granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

44. The amount and application of the purchase money and other compensation payable by the company in any of the cases aforesaid shall be determined in the manner provided by the said Lands' Clauses Consolidation Act for determining the amount and application of the compensation to be paid for lands taken under the provisions thereof.

45. And be it enacted, That it shall be lawful for the company, in addition to the lands authorized to be compulsorily taken by them under the powers of this or the special act, to contract with any party willing to sell the same for the purchase of any land adjoining or near to the railway, not exceeding in the whole the prescribed number of acres for extraordinary purposes; (that is to say,)

For the purpose of making and providing additional stations, yards, wharfs, and places for the accommodation of passengers, and for receiving, depositing, and loading or unloading goods or cattle to be conveyed upon the railway, and for the erection of weighing machines, toll-houses, offices, warehouses, and other buildings and conveniences:

For the purpose of making convenient roads or ways to the railway, or any other purpose which may be requisite or convenient for the formation or use of the railway.

And with respect to the crossing of roads, or other interference therewith, be it enacted as follows:

46. If the line of the railway cross any turnpike road or public highway, then (except where otherwise provided by the special act) either such road shall be carried over the railway, or the railway shall be carried over such road, by means of a bridge, of the height and width and with the ascent or descent by this or the special act in that behalf provided; and such bridge, with the immediate approaches, and all other necessary works connected therewith, shall be executed and at all times thereafter maintained at the expense of the company: provided always, that, with the consent of two or more justices in petty sessions, as after mentioned, it shall be lawful for the company to carry the railway across any highway, other than a public carriage road, on the level.

47. If the railway cross any turnpike road or public carriage road on a level, the company shall erect and at all times maintain good and sufficient gates across such road, on each side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates: and such gates shall be kept constantly closed across such road on both sides of the railway, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway; and such gates shall be of such dimensions and so constructed as when closed to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway; and the person intrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of forty shillings for every default therein; provided always, that it shall be lawful for the Board of Trade, in any case in which they are satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road, should be kept closed across the railway, to order that such gates shall be kept so closed, instead of across the road, and in such case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

48. Where the railway crosses any turnpike road on a level adjoining to a station, all trains on the railway shall be made to slacken their speed before arriving at such turnpike road, and shall not cross the same at any greater rate of speed than four miles an hour; and the company

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CROSSING OF
ROADS AND
CONSTRUCTION OF
BRIDGES.

Railway not to cross roads on the level unless otherwise provided by special act. *Provido as to highways.*

If railway cross public roads on a level, company to erect gates and keep the same closed across such roads.

Board of Trade may order that such gates be kept closed across railway instead of across roads.

Trains not to cross roads adjoining stations at more than

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four miles an hour.	49. Every bridge to be erected for the purpose of carrying the railway over any road shall (except where otherwise provided by the special act) be built in conformity with the following regulations; (that is to say.)
Construc- tion of bridges over roads.	The width of the arch shall be such as to leave there- under a clear space of not less than thirty-five feet if the arch be over a turnpike road, and of twenty-five feet if over a public carriage road, and of twelve feet if over a private road :
Width of arch.	The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be over a turnpike road, and fifteen feet for a space of ten feet if over a public car- riage road; and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet :
Height of arch over public roads.	The clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private car- riage road :
Over pri- vate roads.	The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a turnpike road, one foot in twenty feet if over a public carriage road, and one foot in sixteen feet if over a private carriage road, not being a tramroad or railroad, or if the same be a tramroad or railroad the descent shall not be greater than the prescribed rate of inclination, and if no rate be prescribed the same shall not be greater than as it existed at the passing of the special act.
Descent in roads, &c.	50. Every bridge erected for carrying any road over the railway shall (except as otherwise provided by the special act) be built in conformity with the following regulations; (that is to say.)
Construc- tion of bridges over railway.	There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet.
Fence.	The road over the bridge shall have a clear space be- tween the fences thereof of thirty-five feet if the road be a turnpike road, and twenty-five feet if a public carriage road, and twelve feet if a private road :
Width of road.	The ascent shall not be more than one foot in thirty feet if the road be a turnpike road, one foot in twenty feet if a public carriage road, and one foot in sixteen feet if a private carriage road, not being a tramroad
Ascent of road.	

or railroad, or if the same be a tramroad or railroad the ascent shall not be greater than the prescribed rate of inclination, and if no rate be prescribed the same shall not be greater than as it existed at the passing of the special act.

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51. Provided always, That in all cases where the average available width for the passage of carriages of any existing roads within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads, but so nevertheless that such bridges be not of less width, in the case of a turnpike road or public carriage road, than twenty feet: provided also, that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the company shall be bound, at their own expense, to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road, not exceeding the width of such road as so widened, or the maximum width herein or in the special act prescribed for a bridge in the like case over or under the railway.

Width of
bridges
need not
exceed the
width of
roads in
certain
cases.

If road
afterwards
widened
bridges to
be also
widened.

52. Provided also, That if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may require to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the company, then the company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

Existing
inclinations
of roads
crossed or
diverted
need not be
improved.

53. If, in the exercise of the powers by this or the special act granted, it be found necessary to cross, cut through, raise, sink, or use any part of any road, whether carriage road, horse road, tramroad, or railway, either public or private, so as to render it impassable for or dangerous or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the company shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before
roads inter-
fered with,
others to be
substituted.

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If company
do not sub-
stitute a
road to for-
feit 20*l*. per
day.

Party suf-
fering da-
mage from
interrup-
tion of road may
recover in an
action on the
case.

Company to
restore
roads inter-
fered with,
or put sub-
stituted
road into a
permanently
substantial
condition.

Period for
restoration.

If road be
not restored
or substi-
tuted road
completed
within
period, com-
pany to for-

54. If the company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted; and such penalty shall be paid to the trustees, commissioners, surveyor, or other person having the management of such road, if a public road, and shall be applied for the purposes thereof, or in case of a private road the same shall be paid to the owner thereof, and every such penalty shall be recoverable with costs by action in any of the superior courts.

55. If any party entitled to a right of way over any road so interfered with by the company shall suffer any special damage by reason that the company shall fail to cause another sufficient road to be made before they interfere with the existing road, it shall be lawful for such party to recover the amount of such special damage from the company, with costs, by action on the case in any of the superior courts, and that whether any party shall have sued for such penalty as aforesaid or not, and without prejudice to the right of any party to sue for the same.

56. If the road so interfered with can be restored compatibly with the formation and use of the railway, the same shall be restored to as good a condition as the same was in at the time when the same was first interfered with by the company, or as near thereto as may be; and if such road cannot be restored compatibly with the formation and use of the railway, the company shall cause the new or substituted road, or some other sufficient substituted road, to be put into a permanently substantial condition, equally convenient as the former road, or as near thereto as circumstances will allow; and the former road shall be restored, or the substituted road put into such condition as aforesaid, as the case may be, within the following periods after the first operation on the former road shall have been commenced, unless the trustees or parties having the management of the road to be restored by writing under their hands consent to an extension of the period, and in such case within such extended period; (that is to say,) if the road be a turnpike road, within six months, and if the road be not a turnpike road, within twelve months.

57. If any such road be not so restored, or the substituted road so completed as aforesaid, within the periods herein or in the special act fixed for that purpose, the company shall forfeit to the trustees, commissioners, surveyor, or other person having the management of the road interfered with by the company, if a public road, or if a private

road to the owner thereof, five pounds for every day after the expiration of such periods respectively during which such road shall not be so restored or the substituted road completed; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

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felt 5*l*. per
day.

58. If in the course of making the railway the company shall use or interfere with any road they shall from time to time make good all damage done by them to such road; and if any question shall arise as to the damage done to any such road by the company, or as to the repair thereof by them, such question shall be referred to the determination of two justices; and such justices may direct such repairs to be made in the state of such road, in respect of the damage done by the company, and within such period as they think reasonable, and may impose on the company, for not carrying into effect such repairs, any penalty not exceeding five pounds per day as to such justices shall seem just; and such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the company, if a public road, and be applied for the purposes of such road, or if a private road, the same shall be paid to the owner thereof: provided always, that in determining any such question with regard to a turnpike road, the said justices shall have regard to and shall make full allowance for any tolls that may have been paid by the company on such road in the course of the using thereof.

Company to
repair roads
used by
them.

Justices
may deter-
mine dis-
putes as to
repairs and
impose
penalty of
5*l*. per day.

Allowance
for tolls.

59. When the company shall intend to apply for the consent of two justices, as hereinbefore provided, so as to authorize them to carry the railway across any highway other than a public carriage road on the level, they shall, fourteen days at least previous to the holding of the petty sessions at which such application is intended to be made, cause notice of such intended application to be given in some newspaper circulating in the county, and also to be affixed upon the door of the parish church of the parish in which such crossing is intended to be made, or if there be no such church some other place to which notices are usually affixed; and if it appear to any two or more justices acting for the district in which such highway at the proposed crossing thereof is situate, and assembled in petty sessions, after such notice as aforesaid, that the railway can, consistently with a due regard to the public safety and convenience, be carried across such highway on the level, it shall be lawful for such justices to consent that the same may be so carried accordingly.

Company to
give notice
of applica-
tion to jus-
tices for
consent to
level cross-
ings of
highways.

Justices
may con-
sent that
highways
be crossed
on level.

60. If either party shall feel aggrieved by the determi- Parties ag-

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grieved may
appeal to
quarter
sessions
against the
determina-
tion of the
justices.

Company to
make ap-
proaches
and fences
to bridle-
ways and
footways
crossed on
the level.

On failure
of company
justices
may order
approaches
and fences
to be made
to high-
ways cross-
ing on the
level.

Penalty for
non-com-
pliance.

SCREENS FOR
TURNPIKE
ROADS.

To be made,
if required,
by the Board
of Trade.

nation of such justices upon any such application as aforesaid, it shall be lawful for such party, in like manner and subject to the like conditions as are hereinafter provided in the case of appeals in respect of penalties and forfeitures, to appeal to the quarter sessions of the county or place in which the cause of appeal shall have arisen; and it shall be lawful for the justices in such quarter sessions, upon the hearing of such appeal, either to confirm or quash the determination, or to make such other order in regard to the method of carrying the railway across such highway as aforesaid, as to them shall seem fit, and to make such order concerning the costs both of the original application and of the appeal, as to them shall seem reasonable.

61. If the railway shall cross any highway other than a public carriage way on the level, the company shall at their own expense make and at all times maintain convenient ascents and descents and other convenient approaches, with handrails or other fences, and shall, if such highway be a bridleway, erect and at all times maintain good and sufficient gates, and if the same shall be a footway, good and sufficient gates or stiles, on each side of the railway where the highway shall communicate therewith.

62. If, where the railway shall cross any highway on the level, the company fail to make convenient ascents and descents or other convenient approaches, and such handrails, fence, gates, and stiles as they are hereinbefore required to make, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders within the parish or district where such crossing shall be situate, after not less than ten days' notice to the company, to order the company to make such ascent and descent or other approach, or such handrails, fences, gates, or stiles as aforesaid, within a period to be limited for that purpose by such justices; and if the company fail to comply with such order they shall forfeit five pounds for every day that they fail so to do; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such person as they think fit, in executing the work in respect whereof such penalty was incurred.

63. If the commissioners or trustees of any turnpike road, or the surveyor of any highway, apprehend danger to the passengers on such road in consequence of horses being frightened by the sight of the engines or carriages travelling upon the railway, it shall be lawful for such commissioners, or trustees, or surveyor, after giving fourteen days' notice to the company, to apply to the Board of Trade with respect thereto; and if it shall appear to the

said board that such danger might be obviated or lessened by the construction of any works in the nature of a screen near to or adjoining the side of such road, it shall be lawful for them, if they shall think fit, to certify the works necessary or proper to be executed by the company for the purpose of obviating or lessening such danger, and by such certificate to require the company to execute such works within a certain time after the service of such certificate, to be appointed by the said board.

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64. Where by any such certificate as aforesaid the company shall have been required to execute any such work in the nature of a screen, they shall execute and complete the same within the period appointed for that purpose in such certificate; and if they fail so to do, they shall forfeit to the said commissioners, or trustees, or surveyor, five pounds for every day during which such works shall remain uncompleted beyond the period so appointed for their completion; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

If company fail to construct such screen, to forfeit 5*l.* per day.

65. Where, under the provisions of this or the special act, or any act incorporated therewith, the company are required to maintain or keep in repair any bridge, fence, approach, gate, or other work executed by them, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders of the parish or district where such work may be situate, complaining that any such work is out of repair, after not less than ten days' notice to the company, to order the company to put such work into complete repair within a period to be limited for that purpose by such justices; and if the company fail to comply with such order, they shall forfeit five pounds for every day that they fail so to do; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such persons as they think fit, in putting such work into repair.

CONSTRUCTION OF BRIDGES.

Justices may order repair of bridges, fences, gates, &c.

Penalty for non-compliance.

66. And whereas expense might frequently be avoided, and public convenience promoted, by a reference to the Board of Trade upon the construction of public works of an engineering nature connected with the railway, where a strict compliance with the provisions of this or the special act might be impossible, or attended with inconvenience to the company and without adequate advantage to the public; be it enacted, that in case any difference in regard to the construction, alteration, or restoration of any road or bridge or other public work of an engineering nature, required by the provisions of this

Disputes as to the construction of certain roads, bridges, &c. may be referred to the Board of Trade.

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Board of
Trade may
authorize
other modes
of construc-
tion.

Private in-
terests not
to be affect-
ed.

Authentica-
tion of cer-
tificates of
the Board
of Trade.

Service of
notices on
company.

To Board of
Trade.

WORKS FOR
ACCOMMODA-
TION OF
LANDS.

or the special act, shall arise between the company and any trustees, commissioners, surveyors, or other persons having the control of or being authorized by law to enforce the construction of such road, bridge, or work, it shall be lawful for either party, after giving fourteen days' notice in writing of their intention so to do to the other party, to apply to the Board of Trade to decide upon the proper manner of constructing, altering, or restoring such road, bridge, or other work; and it shall be lawful for the Board of Trade, if they shall think fit, to decide the same accordingly, and to authorize, by certificate in writing, any arrangement or mode of construction in regard to any such road, bridge, or other work, which shall appear to them either to be in substantial compliance with the provisions of this and the special act, or to be calculated to afford equal or greater accommodation to the public using such road, bridge, or other work; and after any such certificate shall have been given by the Board of Trade, the road, bridge, or other work therein mentioned shall be constructed by the company in conformity with the terms of such certificate, and being so constructed shall be deemed to be constructed in conformity with the provisions of this and the special act: provided always, that no such certificate shall be granted by the Board of Trade unless they shall be satisfied that existing private rights or interests will not be injuriously affected thereby.

67. And be it enacted, That all regulations, certificates, notices, and other documents in writing purporting to be made or issued by or by the authority of the Board of Trade, and signed by some officer appointed for that purpose by the Board of Trade, shall for the purposes of this and the special act, and any act incorporated therewith, be deemed to have been so made and issued, and that without proof of the authority of the person signing the same, or of the signature thereto, which matters shall be presumed until the contrary be proved; and service of any such document, by leaving the same at one of the principal offices of the railway company, or by sending the same by post addressed to the secretary at such office, shall be deemed good service upon the company; and all notices and other documents required by this or the special act to be given to or laid before the Board of Trade shall be delivered at, or sent by post addressed to, the office of the Board of Trade in London.

And with respect to works for the accommodation of lands adjoining the railway, be it enacted as follows:

68. The company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway; (that is to say,)

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made; and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof:

8 VICT.
CAP. 20.

Gates,
bridges, &c.

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout, by reason of the railway, together with all necessary gates made to open towards such adjoining lands, and not towards the railway, and all necessary stiles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be:

Fences.

Also all necessary arches, tunnels, culverts, drains or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be; and such works shall be made from time to time as the railway works proceed:

Drains.

Also proper watering places for cattle where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places; and such watering places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the railway had not been made, or as nearly so as may be; and the company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places:

Watering
places.

Provided always, that the company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation instead of the making them.

Such works
not to ob-
struct
working of
railway.

69. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining

Differences
as to ac-
commoda-
tion works

8 VICT.
CAP. 20.

to be set-
tled by jus-
tices.

On failure
of company
owners may
execute
such works
at expense
of company.

Disputes as
to expenses
to be set-
tled by jus-
tices.

Owners
may make
additional
accommoda-
tion
works at
their own
expense.

Such works
to be con-
structed
under the
superin-
tendence of
the com-
pany's en-
gineer.

Accommo-
dation
works not
to be requir-
ed after five
years.

Owners to
be allowed
to cross
railway

thereof, the same shall be determined by two justices; and such justices shall also appoint the time within which such works shall be commenced and executed by the company.

70. If for fourteen days next after the time appointed by such justices for the commencement of any such works the company shall fail to commence such works, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs; and the reasonable expenses thereof shall be repaid by the company to the party by whom the same shall so have been executed; and if there be any dispute about such expenses the same shall be settled by two justices: provided always, that no such owner or occupier or other person shall obstruct or injure the railway, or any of the works connected therewith, for a longer time nor use them in any other manner than is unavoidably necessary for the execution or repair of such accommodation works.

71. If any of the owners or occupiers of lands affected by such railway shall consider the accommodation works made by the company, or directed by such justices to be made by the company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the company, or, in case of difference, as shall be authorized by two justices.

72. If the company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of their engineer, and according to plans and specifications to be submitted to and approved by such engineer; nevertheless the company shall not be entitled to require, either that plans should be adopted which would involve a greater expense than that incurred in the execution of similar works by the company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the company.

73. The company shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the railway after the expiration of the prescribed period, or, if no period be prescribed, after five years from the completion of the works and the opening of the railway for public use.

74. Until the company shall have made the bridges or other proper communications which they shall, under the provisions herein, or in the special act, or any act incor-

porated therewith, contained, have been required to make between lands intersected by the railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses and other animals, directly (but not otherwise) across the part of the railway made in or through their respective lands, solely for the purpose of occupying the same lands, or for the exercise of such right of way, and so as not to obstruct the passage along the railway, or to damage the same; nevertheless, if the owner or occupier of any such lands have in his arrangements with the company received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

8 Vict.
CAP. 30.

until accommodation works are made

Proviso.

75. If any person omit to shut and fasten any gate set up at either side of the railway, for the accommodation of the owners or occupiers of the adjoining lands, as soon as he, and the carriage, cattle or other animals, under his care, have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

Persons omitting to fasten gates liable to forfeit 2l.

76. And be it enacted, That this or the special act shall not prevent the owners or occupiers of lands adjoining to the railway, or any other persons, from laying down, either upon their own lands or upon the lands of other persons, with the consent of such persons, any collateral branches of railway to communicate with the railway, for the purpose of bringing carriages to or from or upon the railway, but under and subject to the provisions and restrictions of an act passed in the sixth year of the reign of her present Majesty, intituled "An Act for the better Regulation of Railways, and for the Conveyance of Troops;" and the company shall, if required, at the expense of such owners and occupiers and other persons, and subject also to the provisions of the said last-mentioned act, make openings in the rails, and such additional lines of rail as may be necessary for effecting such communication, in places where the communication can be made with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereon; and the company shall not take any rate or toll or other monies for the passing of any passengers, goods, or other things along any branch so to be made by any such owner or occupier or other person; but this enactment shall be subject to the following restrictions and conditions; (that is to say,)

BRANCH RAILWAYS.

Owners may make private branch railways communicating with the railway. 5 & 6 Vict. c. 55, s. 12.

Restrictions and conditions.

No such branch railway shall run parallel to the railway.

8 VICT.
CAP. 20.

The company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any inclined plane or bridge, nor in any tunnel :

The persons making or using such branch railways shall be subject to all bye-laws and regulations of the company from time to time made with respect to passing upon or crossing the railway, and otherwise ; and the persons making or using such branch railways shall be bound to construct, and from time to time, as need may require, to renew, the offset plates and switches according to the most approved plan adopted by the company, and under the direction of their engineer.

**WORKING OF
MINES.**

Company
not to be
entitled to
minerals
unless ex-
pressly pur-
chased.

And with respect to mines lying under or near the rail-
way, be it enacted as follows :

77. The company shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased ; and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Owners of
mines lying
near the
railway to
give notice
before
working.

78. If the owner, lessee, or occupier of any mines or minerals lying under the railway, or any of the works connected therewith, or within the prescribed distance, or, where no distance shall be prescribed, forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give to the company notice in writing of his intention so to do thirty days before the commencement of working ; and upon the receipt of such notice it shall be lawful for the company to cause such mines to be inspected by any person appointed by them for the purpose ; and if it appear to the company that the working of such mines or minerals is likely to damage the works of the railway, and if the company be willing to make compensation for such mines or any part thereof to such owner, lessee, or occupier thereof, then he shall not work or get the same ; and if the company, and such owner, lessee, or occupier, do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation.

Company
may pur-
chase such
mines.

Compensa-
tion.

If company
unwilling to
purchase,
owner may
work the
mines.

79. If before the expiration of such thirty days the company do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines

or any part thereof for which the company shall not have agreed to pay compensation, so that the same be done in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the district where the same shall be situate; and if any damage or obstruction be occasioned to the railway or works by improper working of such mines, the same shall be forthwith repaired or removed, as the case may require, and such damage made good, by the owner, lessee, or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or, if the company shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the company to execute the same, and recover from such owner, lessee, or occupier the expense occasioned thereby, by action in any of the superior courts.

8 VICT.
CAP. 20.

Damage to
railway by
improper
working of
mines to be
made good
by owners.

80. If the working of any such mines under the railway or works, or within the above-mentioned distance therefrom, be prevented as aforesaid by reason of apprehended injury to the railway, it shall be lawful for the respective owners, lessees, and occupiers of such mines, and whose mines shall extend so as to lie on both sides of the railway, to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work their said mines, but no such airway, headway, gateway, or water level shall be of greater dimensions or section than the prescribed dimensions and sections, and where no dimensions shall be described not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the railway or works, or so as to injure the same, or to impede the passage thereon.

If mines extend on both sides of railway owners may make airways and other communications.

Dimensions of such airways, &c.

81. The company shall from time to time pay to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the railway all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands lying over such mines by the railway, or of the continuous working of such mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway; and if any dispute or question shall arise between the company and such owner, lessee, or occupier as aforesaid, touching the amount of such losses or expenses, the same shall be settled by arbitration.

Company to make compensation to owners for loss by interruption of continuous working of such mines,

8 VICT.
CAP. 20.

and also to
owner of
surface
lands for
any airway
or other
work made
necessary by
the railway.

Company
may enter
and inspect
the working
of mines.

Owners re-
fusing to
allow in-
spection
liable to
forfeit 20l.

If mines
improperly
worked,
company
may require
owners to
adopt means
for making
safe the
railway.

PASSENGERS
AND GOODS
ON RAIL-
WAYS.

Company
may employ
engines and
carriages,
and convey

82. If any loss or damage be sustained by the owner or occupier of the lands lying over any such mines the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee, or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the company shall make full compensation to such owner or occupier of the surface lands for the loss or damage so sustained by him.

83. For better ascertaining whether any such mines are being worked, or have been worked so as to damage the railway or works, it shall be lawful for the company, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked or about so to be.

84. If any such owner, lessee, or occupier of any such mine shall refuse to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the company a sum not exceeding twenty pounds.

85. If it appear that any such mines have been worked contrary to the provisions of this or the special act, the company may, if they think fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the railway, and preventing injury thereto; and if after such notice any such owner, lessee, or occupier do not forthwith proceed to construct the works necessary for making safe the railway, the company may themselves construct such works, and recover the expense thereof from such owner, lessee, or occupier by action in any of the superior courts.

And with respect to the carrying of passengers and goods upon the railway, and the tolls to be taken thereon, be it enacted as follows:

86. It shall be lawful for the company to use and employ locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and to carry and convey upon the railway all such pas-

sengers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may from time to time determine upon, not exceeding the tolls by the special act authorized to be taken by them.

. 8 VICT.
CAP. 20.

passengers
and goods.

87. It shall be lawful for the company from time to time to enter into any contract with any other company, being the owners or lessees or in possession of any other railway, for the passage over or along the railway by the special act authorized to be made of any engines, coaches, waggons, or other carriages of any other company, or which shall pass over any other line of railway, or for the passage over any other line of railway of any engines, coaches, waggons, or other carriages of the company, or which shall pass over their line of railway, upon the payment of such tolls and under such conditions and restrictions as may be mutually agreed upon; and for the purpose aforesaid it shall be lawful for the respective parties to enter into any contract for the division or apportionment of the tolls to be taken upon their respective railways.

Company
may contract with
other companies for
passage of
trains and
apportionment of
tolls.

88. Provided always, That no such contract as aforesaid shall in any manner alter, affect, increase, or diminish any of the tolls which the respective companies, parties to such contracts, shall for the time being be respectively authorized and entitled to demand or receive from any person or any other company, but that all other persons and companies shall, notwithstanding any such contract, be entitled to the use and benefit of any of the said railways, upon the same terms and conditions, and on payment of the same tolls, as they would have been in case no such contract had been entered into.

Such contracts not to affect tolls payable by persons not parties thereto.

89. Nothing in this or the special act contained shall extend to charge or make liable the company further or in any other case than where, according to the laws of the realm, stage coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the company of any protection or privilege which common carriers or stage coach proprietors may be entitled to; but, on the contrary, the company shall at all times be entitled to the benefit of every such protection and privilege.

Company not to be liable to a greater extent than common carriers.

90. And whereas it is expedient that the company should be enabled to vary the tolls upon the railway so as to accommodate them to the circumstances of the traffic, but that such power of varying should not be used for the purpose of prejudicing or favouring particular parties, or for the purpose of collusively and unfairly creating a monopoly, either in the hands of the company or of particular parties; it shall be lawful, therefore, for the com-

Company may alter or vary tolls.

8 VICT.
CAP. 20.

Tolls to be
charged
equally
under like
circum-
stances.

Tolls to be
calculated
on amalga-
mated rail-
ways as one
line.

Company
may make
tolls.

Persons
may use
railway on
payment of
tolls.

5 & 6 Vict.
c 55, s. 11.

List of tolls
to be ex-
hibited on a
board.

pany, subject to the provisions and limitations herein and in the special act contained, from time to time to alter or vary the tolls by the special act authorized to be taken, either upon the whole or upon any particular portions of the railway, as they shall think fit; provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton per mile or otherwise, in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of railway under the same circumstances; and no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the railway.

91. And whereas authority has been given by various acts of parliament to railway companies to demand tolls for the conveyance of passengers and goods and for other services over the fraction of a mile equal to the toll which they are authorized to demand for one mile; therefore, in cases in which any railway shall be amalgamated with any other adjoining railway or railways, such tolls shall be calculated and imposed at such rates as if such amalgamated railways had originally formed one line of railway.

92. It shall not be lawful for the company at any time to demand or take a greater amount of toll, or make any greater charge for the carriage of passengers or goods, than they are by this and the special act authorized to demand; and upon payment of the tolls from time to time demandable all companies and persons shall be entitled to use the railway, with engines and carriages properly constructed as by this and the special act directed, subject nevertheless to the provisions and restrictions of the said act of the sixth year of her present Majesty, intituled "An Act for the better Regulation of Railways, and for the Conveyance of Troops," and to the regulations to be from time to time made by the company by virtue of the powers in that behalf hereby and by the special act conferred upon them.

93. A list of all the tolls authorized by the special act to be taken, and which shall be exacted by the company, shall be published by the same being painted upon one toll board or more in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and by such board being exhibited in some conspicuous place on the stations or places where such tolls shall be made payable.

94. The company shall cause the length of the railway to be measured, and milestones, posts, or other conspicuous objects to be set up and maintained along the whole line thereof, at the distance of one quarter of a mile from each other, with numbers or marks inscribed thereon denoting such distances.

8 VICT.
CAP. 20.

Railway to be measured and milestones set up.

95. No tolls shall be demanded or taken by the company for the use of the railway during any time at which the boards hereinbefore directed to be exhibited shall not be so exhibited, or at which the milestones hereinbefore directed to be set up and maintained shall not be so set up and maintained; and if any person wilfully pull down, deface, or destroy any such board or milestone, he shall forfeit a sum not exceeding five pounds for every such offence.

No tolls to be taken unless board exhibited and milestones set up.

96. The tolls shall be paid to such persons, and at such places upon or near to the railway, and in such manner and under such regulations, as the company shall, by notice to be annexed to the list of tolls, appoint.

Tolls to be paid as directed by company.

97. If, on demand, any person fail to pay the tolls due in respect of any carriage or goods, it shall be lawful for the company to detain and sell such carriage, or all or any part of such goods, or if the same shall have been removed from the premises of the company, to detain and sell any other carriages or goods within such premises belonging to the party liable to pay such tolls, and out of the monies arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, of the monies arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto, or it shall be lawful for the company to recover any such tolls by action at law.

In default of payment of tolls company may detain and sell goods.

98. Every person being the owner or having the care of any carriage or goods passing or being upon the railway shall, on demand, give to the collector of tolls, at the places where he attends for the purpose of receiving goods or of collecting tolls for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of the number or quantity of goods conveyed by any such carriage, and of the point on the railway from which such carriage or goods have set out or are about to set out, and at what point the same are intended to be unloaded or taken off the railway; and if the goods conveyed by any such carriage, or brought for conveyance as aforesaid, be liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

Owners of carriages and goods to give account of lading, &c. to collector of tolls.

8 VICT.
CAP. 20.

Owners, &c.
not giving
account of
lading, or
not pro-
ducing
way-bill or
avoiding
payment of
tolls liable
to penalty.

Disputes as
to amount
of tolls to be
settled by
justice.

Differences
as to
weights, &c.

Collectors
may detain
and weigh
carriages
and goods.

If account
of lading
incorrect own-
ers to pay
costs of exa-
mination,
but if cor-
rect com-
pany to pay
costs and
damages.

Toll collec-
tors for
wrongful
detention of

99. If any such owner or other such person fail to give such account, or to produce his way-bill or bill of lading, to such collector or other officer or servant of the company demanding the same, or if he give a false account, or if he unload or take off any part of his lading or goods at any other place than shall be mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof, he shall for every such offence forfeit to the company a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundred weight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundred weight, (as the case may be,) which shall be upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

100. If any dispute arise concerning the amount of the tolls due to the company, or concerning the charges occasioned by any detention or sale thereof under the provisions herein or in the special act contained, the same shall be settled by a justice; and it shall be lawful for the company in the meanwhile to detain the goods, or (if the case so require) the proceeds of the sale thereof.

101. If any difference arise between any toll collector or other officer or servant of the company and any owner of or person having the charge of any carriage passing or being upon the railway, or of any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same; and if upon such measuring or examination such goods appear to be of greater weight or quantity or of other nature than shall have been stated in the account given thereof, then the person who shall have given such account shall pay, and the owner of such carriage, or the respective owners of such goods, shall also, at the option of the company, be liable to pay, the costs of such measuring and examining; but if such goods appear to be of the same or less weight or quantity than and of the same nature as shall have been stated in such account, then the company shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods, such damage (if any) as shall appear to any justice, on a summary application to him for that purpose, to have arisen from such detention.

102. If at any time it be made to appear to any justice, upon the complaint of the company, that any such detention, measuring, or examining of any carriage or goods, as

hereinbefore mentioned, was without reasonable ground, or that it was vexatious on the part of such collector or other officer, then the collector or other officer shall himself pay the costs of such detention and measuring, and the damage occasioned thereby; and in default of immediate payment of any such costs or damage the same may be recovered by distress of the goods of such collector, and such justice shall issue his warrant accordingly.

8 Vic.
CAP. 20.

goods liable
for costs
and damage.

103. If any person travel or attempt to travel in any carriage of the company, or of any other company or party using the railway, without having previously paid his fare, and with intent to avoid payment thereof, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such carriage, every such person shall for every such offence forfeit to the company a sum not exceeding forty shillings.

Passengers
practising
frauds on
the com-
pany liable
to forfeit 2l.

104. If any person be discovered, either in or after committing or attempting to commit any such offence as in the preceding enactment mentioned, all officers and servants and other persons on behalf of the company, or such other company or party as aforesaid, and all constables, gaolers, and peace officers, may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he be otherwise discharged by due course of law.

Parties
practising
frauds may
be detained
and taken
before jus-
tice.

105. No person shall be entitled to carry, or to require the company to carry, upon the railway, any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which in the judgment of the company may be of a dangerous nature; and if any person send by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the company with whom the same are left, at the time of so sending, he shall forfeit to the company twenty pounds for every such offence; and it shall be lawful for the company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Persons
bringing
dangerous
goods on the
railway
without
notice liable
to forfeit 20l.

106. If any collector of tolls or other officer employed by the company be discharged or suspended from his office, or die, abscond, or absent himself, and if such collector or other officer, or the wife, widow, or any of the family or representatives of any such collector or other

Matters in
possession
or custody
of toll col-
lector to be
delivered to
company

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when re-
quired.

Justice may
order posses-
sion to be
given.

Company to
prepare an-
nual ac-
count of
receipts and
payments,
and trans-
mit copy to
overseers,
clerks of the
peace, &c.

Company for
omission
liable to
forfeit 20l.

BYE-LAWS.

Company
may make
regulations.

Speed.

Times of
arrival.

Loading.

officer, refuse or neglect, after seven days' notice in writing for that purpose, to deliver up to the company, or to any person appointed by them for that purpose, any station, dwelling-house, office, or other building, with its appurtenances, or any books, papers, or other matters belonging to the company in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid, then, upon application being made by the company to any justice, it shall be lawful for such justice to order any constable, with proper assistance, to enter upon such station or other building, and to remove any person found therein, and to take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the company, or any person appointed by them for that purpose.

107. And be it enacted, that the company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by virtue of this or the special act, for the year ending on the thirty-first day of December or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the directors, or some of them, and by the auditors, and shall, if required, transmit a copy of the said account, free of charge, to the overseers of the poor of the several parishes through which the railway shall pass, and also to the clerks of the peace of the counties through which the railway shall pass, on or before the thirty-first day of January then next; which last-mentioned account shall be open to the inspection of the public at all seasonable hours, on payment of the sum of one shilling for every such inspection; provided always, that if the said company shall omit to prepare or transmit such account as aforesaid, if required so to do by any such clerk of the peace or overseers of the poor, they shall forfeit for every such omission the sum of twenty pounds.

And with respect to the regulating of the use of the railway, be it enacted as follows:

108. It shall be lawful for the company, from time to time, subject to the provisions and restrictions in this and the special act contained, to make regulations for the following purposes; (that is to say,)

For regulating the mode by which and the speed at which carriages using the railway are to be moved or propelled;

For regulating the times of the arrival and departure of any such carriages;

For regulating the loading or unloading of such car-

riages, and the weights which they are respectively to carry ; 8 Vict
CAP. 20.

For regulating the receipt and delivery of goods and other things which are to be conveyed upon such carriages ; Receipt of
goods.

For preventing the smoking of tobacco, and the commission of any other nuisance, in or upon such carriages, or in any of the stations or premises occupied by the company ; Prevention
of nuis-
ances,

And, generally, for regulating the travelling upon or using and working of the railway : and other
purposes.

But no such regulation shall authorize the closing of the railway, or prevent the passage of engines or carriages on the railway, at reasonable times, except at any time when in consequence of any of the works being out of repair, or from any other sufficient cause, it shall be necessary to close the railway or any part thereof. Proviso.

109. For better enforcing the observance of all or any of such regulations it shall be lawful for the company, subject to the provisions of an act passed in the fourth year of the reign of her present Majesty, intituled, "An Act for Regulating Railways," to make bye-laws, and from time to time to repeal or alter such bye-laws, and make others, provided that such bye-laws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special act ; and such bye-laws shall be reduced into writing, and shall have affixed thereto the common seal of the company ; and any person offending against any such bye-law shall forfeit for every such offence any sum not exceeding five pounds, to be imposed by the company in such bye-laws as a penalty for any such offence ; and if the infraction or non-observance of any such bye-law or other such regulation as aforesaid be attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, it shall be lawful for the company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the infraction of any such bye-law. Company
may make
and alter
bye-laws,
see 3 & 4
Vict. c. 97,
s. 8, 9.

Persons of-
fending
against bye-
laws liable
to forfeit 5*l*.

110. The substance of such last-mentioned bye-laws, when confirmed or allowed according to the provisions of any act in force regulating the allowance or confirmation of the same, shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed and continued on the front or other conspicuous part of every wharf or station belonging to the company, according to the nature or subject matter of such bye-laws respectively, and so as to give public notice thereof to the parties Substance
of such bye-
laws to be
exhibited on
a board.

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CAP. 20.

Such bye-
laws to be
binding on
all parties.

LEASING OF
RAILWAY.

Lease of
railway to
contain all
usual and
proper
covenants.

Such lease
to entitle
lessees to
use of rail-
way and ex-
ercise of
powers and
privileges
granted to
company.

CARRIAGES
AND
ENGINES.

interested therein or affected thereby; and such boards shall from time to time be renewed as often as the bye-laws thereon or any part thereof shall be obliterated or destroyed; and no penalty imposed by any such bye-law shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

111. Such bye-laws, when so confirmed, published, and affixed, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same; and for proof of the publication of any such bye-laws it shall be sufficient to prove that a printed paper or painted board, containing a copy of such bye-laws, was affixed and continued in manner by this act directed, and in case of its being afterwards displaced or damaged then that such paper or board was replaced as soon as conveniently might be.

And with respect to leasing the railway, be it enacted as follows:

112. Where the company shall be authorized by the special act to lease the railway or any part thereof to any company or person, the lease to be executed in pursuance of such authority shall contain all usual and proper covenants on the part of the lessee for maintaining the railway, or the portion thereof comprised in such lease, in good and efficient repair and working condition during the continuance thereof, and for so leaving the same at the expiration of the term thereby granted, and such other provisions, conditions, covenants, and agreements as are usually inserted in leases of a like nature.

113. Such lease shall entitle the company or person to whom the same shall be granted to the free use of the railway or portion of railway comprised therein, and during the continuance of any such lease all the powers and privileges granted to and which might otherwise be exercised and enjoyed by the company, or the directors thereof, or their officers, agents, or servants, by virtue of this or the special act, with regard to the possession, enjoyment, and management of the railway, or of the part thereof comprised in such lease, and the tolls to be taken thereon, shall be exercised and enjoyed by the lessee, and the officers and servants of such lessee, under the same regulations and restrictions as are by this or the special act imposed on the company, and their directors, officers, and servants; and such lessee shall, with respect to the railway comprised in such lease, be subject to all the obligations by this or the special act imposed on the company.

And with respect to the engines and carriages to be brought on the railway, be it enacted as follows:

114. Every locomotive steam engine to be used on the railway shall, if it use coal or other similar fuel emitting smoke, be constructed on the principle of consuming and so as to consume its own smoke; and if any engine be not so constructed the company or party using such engine shall forfeit five pounds for every day during which such engine shall be used on the railway.

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CAP. 20.

Engines to
consume
their
smoke.

Penalty.

115. No locomotive or other engine, or other description of moving power, shall at any time be brought upon or used on the railway unless the same have first been approved of by the company; and within fourteen days after notice given to the company by any party desirous of bringing any such engine on the railway the company shall cause their engineer or other agent to examine such engine at any place within three miles' distance from the railway to be appointed by the owner thereof, and to report thereon to the company; and within seven days after such report, if such engine be proper to be used on the railway, the company shall give a certificate to the party requiring the same of their approval of such engine; and if at any time the engineer or other agent of the company report that any engine used upon the railway is out of repair, or unfit to be used upon the railway, the company may require the same to be taken off, or may forbid its use upon the railway until the same shall have been repaired to the satisfaction of the company, and upon the engine being so repaired the company shall give a certificate to the party requiring the same of their approval of such engine; and if any difference of opinion arise between the company and the owner of any such engine as to the fitness or unfitness thereof for the purpose of being used on the railway, such difference shall be settled by arbitration.

No engines
to be brought
on railway
until ap-
proved of
by company
and certifi-
cate of
approval
given.

Engines out
of repair or
unfit to be
used may be
removed.

116. If any person, whether the owner or other person having the care thereof, bring or use upon the railway any locomotive or other engine, or any moving power, without having first obtained such certificate of approval as aforesaid, or if, after notice given by the company to remove any such engine from the railway, such person do not forthwith remove the same, or if, after notice given by the company not to use any such engine on the railway, such person do so use such engine, without having first repaired the same to the satisfaction of the company, and obtained such certificate of approval, every such person shall in any of the cases aforesaid forfeit to the company a sum not exceeding twenty pounds; and in any such case it shall be lawful for the company to remove such engine from the railway.

Persons
using en-
gines with-
out certifi-
cate, or not
removing
improper
engines
after notice,
liable to for-
feit 20*l*.

117. No carriage shall pass along or be upon the rail- Carriages

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CAP. 20.

and also to
owner of
surface
lands for
any airway
or other
work made
necessary by
the railway.

82. If any loss or damage be sustained by the owner or occupier of the lands lying over any such mines the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee, or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the company shall make full compensation to such owner or occupier of the surface lands for the loss or damage so sustained by him.

Company
may enter
and inspect
the working
of mines.

83. For better ascertaining whether any such mines are being worked, or have been worked so as to damage the railway or works, it shall be lawful for the company, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked or about so to be.

Owners re-
fusing to
allow in-
spection
liable to
forfeit 20l.

84. If any such owner, lessee, or occupier of any such mine shall refuse to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the company a sum not exceeding twenty pounds.

If mines
improperly
worked,
company
may require
owners to
adopt means
for making
safe the
railway.

85. If it appear that any such mines have been worked contrary to the provisions of this or the special act, the company may, if they think fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the railway, and preventing injury thereto; and if after such notice any such owner, lessee, or occupier do not forthwith proceed to construct the works necessary for making safe the railway, the company may themselves construct such works, and recover the expense thereof from such owner, lessee, or occupier by action in any of the superior courts.

PASSENGERS
AND GOODS
ON RAIL-
WAYS.

And with respect to the carrying of passengers and goods upon the railway, and the tolls to be taken thereon, be it enacted as follows:

Company
may employ
engines and
carriages,
and convey

86. It shall be lawful for the company to use and employ locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and to carry and convey upon the railway all such pas-

passengers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may from time to time determine upon, not exceeding the tolls by the special act authorized to be taken by them.

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CAP. 20.

passengers
and goods.

87. It shall be lawful for the company from time to time to enter into any contract with any other company, being the owners or lessees or in possession of any other railway, for the passage over or along the railway by the special act authorized to be made of any engines, coaches, waggons, or other carriages of any other company, or which shall pass over any other line of railway, or for the passage over any other line of railway of any engines, coaches, waggons, or other carriages of the company, or which shall pass over their line of railway, upon the payment of such tolls and under such conditions and restrictions as may be mutually agreed upon; and for the purpose aforesaid it shall be lawful for the respective parties to enter into any contract for the division or apportionment of the tolls to be taken upon their respective railways.

Company
may contract with
other companies for
passage of
trains and
apportionment of
tolls.

88. Provided always, That no such contract as aforesaid shall in any manner alter, affect, increase, or diminish any of the tolls which the respective companies, parties to such contracts, shall for the time being be respectively authorized and entitled to demand or receive from any person or any other company, but that all other persons and companies shall, notwithstanding any such contract, be entitled to the use and benefit of any of the said railways, upon the same terms and conditions, and on payment of the same tolls, as they would have been in case no such contract had been entered into.

Such contracts not
to affect
tolls payable
by persons
not parties
thereto.

89. Nothing in this or the special act contained shall extend to charge or make liable the company further or in any other case than where, according to the laws of the realm, stage coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the company of any protection or privilege which common carriers or stage coach proprietors may be entitled to; but, on the contrary, the company shall at all times be entitled to the benefit of every such protection and privilege.

Company
not to be
liable to a
greater extent
than
common
carriers.

90. And whereas it is expedient that the company should be enabled to vary the tolls upon the railway so as to accommodate them to the circumstances of the traffic, but that such power of varying should not be used for the purpose of prejudicing or favouring particular parties, or for the purpose of collusively and unfairly creating a monopoly, either in the hands of the company or of particular parties; it shall be lawful, therefore, for the com-

Company
may alter or
vary tolls.

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CAP. 20.

Appoint-
ment not to
be revoked
without con-
sent.

On failure of
one party the
other may
appoint ar-
bitrator to
act for both.

If arbitrator
die or re-
sign another
to be ap-
pointed.

Arbitrators
to appoint
umpire.

If umpire
die another
to be ap-
pointed.

Board of
Trade may
appoint um-
pire, on
neglect of
arbitrators.

pany, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate, under the common seal of such corporation, and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matters so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

127. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable to act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed "ex parte;" and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or incapacity as aforesaid.

128. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under this or the special act; and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

129. If in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Board of Trade shall, on the application of either party to such arbitration appoint an umpire; and the decision of such umpire on the matters on which the

arbitrators shall differ, or which shall be referred to him under this or the special act, shall be final.

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CAP. 20.

130. If, where a single arbitrator shall have been appointed, such arbitrator shall die, or become incapable to act, before he shall have made his award, the matters referred to him shall be determined by arbitration, under the provisions of this or the special act, in the same manner as if such arbitrator had not been appointed.

If single arbitrator die the matter to begin de novo

131. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse, or for seven days neglect to act, the other arbitrator may proceed "ex parte," and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

If either arbitrator refuse to act the other to proceed.

132. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time, if any, as shall have been appointed for that purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire to be appointed as aforesaid.

If arbitrators fail to make their award within 21 days, the matter to go to the umpire.

133. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrators may call for documents and administer oaths.

134. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall, in the presence of a justice, make and subscribe the following declaration; that is to say,

Arbitrator and umpire to make and subscribe declaration.

"I, A.B., do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me, under the provisions of the act [naming the special act]. A.B."

"Made and subscribed in the presence of"

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Declaration to be annexed to award.

135. Except where by this or the special act, or any act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators.

Costs to be settled by arbitrators.

136. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

Submission to arbitration.

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CAP. 20.Award not
to be set
aside.SERVICE OF
NOTICES
UPON COM-
PANY.TENDER OF
AMENDS.After tender
of sufficient
amends
party not to
recover in
any action.RECOVERY
OF DAMAGES
AND
PENALTIES.Damages
not other-
wise provi-
ded for may
be deter-
mined by
justices,and reco-
vered by
distress.Distress
against
company
may be re-
covered by
distress of

137. No award made with respect to any question referred to arbitration under the provisions of this or the special act shall be set aside for irregularity or error in matter of form.

138. And be it enacted, that any summons or notice, or any writ, or other proceeding at law or in equity requiring to be served upon the company, may be served by the same being left at or transmitted through the post directed to the principal office of the company, or one of their principal offices where there shall be more than one, or being given personally to the secretary, or in case there be no secretary then by being given to any one director of the company.

139. And be it enacted, that if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or any act incorporated therewith, or by virtue of any power or authority thereby given, and if before action brought in respect thereof such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action: and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows:

140. In all cases where any damages, costs, or expenses are by this or the special act, or any act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, or any other justice, on application, shall issue their or his warrant accordingly.

141. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, and expenses payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and

the justices aforesaid, or either of them, on application shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company, coming into his custody or control, or he may sue the company for the same.

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CAP. 30.

goods of
treasurer.
Notice.

Treasurer
may sue
company.

142. Where in this or the special act any question of compensation, expenses, charges, or damages, or other matter, is referred to the determination of any one justice or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the cost of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

In questions
of damages,
&c. justices
may issue
summons,

and upon
appearance
or proof of
service de-
termine.

Costs.

143. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special act, or by any bye-law of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Company to
publish
short parti-
culars of
offences for
which any
penalty is
imposed, and
affix the
same to a
board,

and renew
when obli-
terated.

144. If any person pull down or injure any board put up or affixed as required by this or the special act for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall

Penalty for
defacing
boards used
for such
publication.

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Penalties to be recovered before two justices, who may issue summons,

and upon appearance or proof of service convict the offender.

Costs.

Penalties may be levied by distress.

Justice may detain offenders until return made to warrant of distress.

If no sufficient distress can be had, offender may be committed.

forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

145. Every penalty or forfeiture imposed by this or the special act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice he shall issue a summons requiring the party complained against to appear before two justices at a time and place to be named in such summons, and every such summons shall be served on the party offending either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or, in his absence, after proof of the due service of such summons, it shall be lawful for any two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them; and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

146. If forthwith upon any such adjudication as aforesaid the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such justices, or either of them, shall issue their or his warrant of distress accordingly.

147. It shall be lawful for any such justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the justice, for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of distress it shall appear to the justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such justice whereon to levy such penalty or forfeiture and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the justice, then such justice shall by

warrant cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture and costs be sooner paid and satisfied.

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148. Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress to be levied by sale of goods of party.

Overplus to be repaid.

149. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not to be unlawful for want of form.

150. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish, or if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or, if there shall not be any poor's rate therein, in aid of the poor's rate of any adjoining parish or district.

Justices may award one half of penalty to informer and remainder to overseers.

151. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.

Penalties to be sued for within six months.

152. If, through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the special act, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage as

Damage to be made good in addition to penalty.

**8 VICT.
CAP. 80.**

well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

**Justice may
summon
witnesses.**

153. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

**Witnesses
not appear-
ing or re-
fusing to be
examined,
liable to for-
feit 5*l*.**

**Officers of
company
may detain
offenders
whose
names shall
be unknown.**

154. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special act, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

**Form of
conviction.**

155. The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule to this act annexed.

**Proceedings
not vacated
for want of
form, &c.**

156. No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

**Parties ag-
grieved may
appeal to
quarter
sessions.**

157. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such deter-

mination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

8 VICT.

CAP. 20.

Notice.

Sureties.

158. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Court may make such order as they think reasonable.

159. Provided always, and be it enacted, That notwithstanding anything herein or in the special act, or any act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by an act passed in the third year of the reign of her present Majesty, intituled "An Act for Regulating the Police Courts in the Metropolis;" and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned act.

Receiver of metropolitan police district to receive penalties incurred within his district.

2 & 3 Vict.
c. 71.

8 VICT.
CAP. 30.

Persons
giving false
evidence
liable to
penalties.

USHER'S
POUNDAGE.

Money paid
into the
bank of
Ireland to be
exempt from.
1 & 2 Vict.
c. 117.

ACCESS TO
SPECIAL
ACT.

Company to
keep copy of
special act
at their
principal
office, and
deposit
copies with
clerks of
the peace.

7 W. 4,
& 1 Vict. c.
88.

Penalty on
company
failing to
keep or de-
posit copies.

Scotland.

Act may be
amended or
repealed.

160. And be it enacted, That every person who, upon any examination upon oath, under the provisions of this or the special act, or any act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

161. And be it declared and enacted, That all sums of money which have been or shall be paid into the bank of Ireland in the name and with the privity of the accountant-general of the Court of Chancery of Ireland, under the provisions of an act passed in the second year of the reign of her present Majesty, intituled "An Act to Provide for the Custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament by Subscribers to Works or Undertakings to be effected under the Authority of Parliament," shall and may be paid out and applied under any order of the said Court of Chancery exempt from usher's poundage.

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows:

162. The company shall at all times after the expiration of six months after the passing of the special act keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; shall also within the space of such six months deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special act, so printed as aforesaid; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

163. If the company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

164. And be it enacted, That this act shall not extend to Scotland.

165. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

SCHEDULE referred to by the foregoing Act.
to wit.8 VICT.
CAP. 20.

Be it remembered, That on the day of in the year of our Lord A.B. is convicted before us, C. D., two of her Majesty's justices of the peace for the county of [here describe the offence generally, and the time and place when and where committed], contrary to the [here name the special act]. Given under our hands and seals the day and year first above written.

C.
D.

CONSTABLES NEAR PUBLIC WORKS, (IRELAND.)

8 & 9 VICT. cap. 46.

An Act for the Appointment of additional Constables for keeping the Peace near Public Works in Ireland. [21st July, 1845.]

Preamble. WHEREAS it is expedient to provide for the appointment See 11 & 12 and payment of additional head and other constables for Vict. c. 72, keeping the peace, and for the protection of the inhabitants and the security of property, in the neighbourhood of railway works and other public works in Ireland :
a. 7.

Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same :

Additional head and other constables may be appointed by the lord lieutenant to keep the peace near the works of railways, &c. in Ireland.

1. That from and after the passing of this act, in any case in which the works of any railway, canal, or other public work of a similar nature shall be in progress of construction in Ireland, upon the application of the company or other parties carrying on any such public work, or upon the application of two or more justices of the peace of the county acting in the petty sessions of the district in or through which any such public work may be in the course of construction, to whom it shall be made appear, on the oath of two or more credible witnesses, that the appointment of additional constables for the keeping of the peace, and for the protection of the inhabitants, and the security of property, in the neighbourhood of such works, is necessary in consequence of the behaviour or reasonable apprehension of the behaviour of the persons employed in the said works, it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland, if he or they shall so think fit, from time to time to order and direct that, in addition to the number of head and other constables whom the said lord lieutenant or other chief governor or governors of Ireland is or are authorized to appoint by virtue of an act passed in the sixth year of the reign of his late majesty, intituled "An Act to consolidate the Laws relating to the Constabulary Force in Ireland," and the other acts amending the same, such number of head and other constables as he or they shall think fit, not exceeding in any case the number specified in any such application as aforesaid, shall be appointed and em-

6 & 7 W.
4, c. 13.

ployed during the construction of such public works, in aid of and in conjunction with the said constabulary force in such county, county of a city, county of a town, or place, near to the said public works so in progress of construction, as shall be mentioned in the said order, and shall remain there for such length of time, or remove to or remain at such other place or places near to such public works for such time or times, as shall be mentioned or directed by such order, or any other order or orders which may from time to time be made by such lord lieutenant or other chief governor or governors or by the inspector general of the said constabulary force, under the control and directions of the said lord lieutenant or other chief governor or governors; and such constables may in like manner, by any such order, be reduced in number, or wholly removed from the neighbourhood of such works; and the head and other constables so appointed shall, during the period of such employment, have the same amount of pay and allowances, and the same rights, powers and authorities, privileges and advantages, and be subject to the same provisions and enactments, rules, regulations, and orders, and be in all respects in the same situation in the county, county of a city, or county of a town in which they shall be stationed, as far as the circumstances of the case will admit, as if they had been appointed to and formed part of the constabulary force established in and for such county, county of a city, or county of a town.

2. And be it enacted, that the inspector general of the said constabulary force, with the assistance of the receiver of the said force, shall from time to time, or as often as he shall think convenient, prepare and certify under his hand a detailed account of the expense incurred for the pay, salary, clothing and equipment, lodging, and other allowances of such men so appointed and employed as aforesaid, which expense, when approved and certified by the chief or under secretary of such lord lieutenant or other chief governor or governors, the said company or parties, or their agent, shall, upon demand, pay to the said receiver, to be placed to the credit of the county, county of a city, or county of a town in which such constables as aforesaid shall have been so employed.

3. And be it enacted, that in all cases where the company or other parties carrying on such public work shall refuse or neglect, during fourteen days next after demand thereof, to pay any such expense, or any part thereof, as shall have been so certified and approved as aforesaid, the same shall and may be sued for in any of the superior courts, at the suit of her majesty's attorney general

Expense of additional head and other constables to be paid by the company or parties carrying on such works.

If the company or parties neglect to pay the expense, it may be re-

covered at the suit of her majesty's attorney general for Ireland, or by distress and sale of the goods of the company.

for Ireland, as a debt due to her majesty, or, upon production of such account, so certified and approved, before any two justices of the county, county of a city, or county of a town in which such constables shall have been so employed as aforesaid; and upon proof on oath of such demand made as aforesaid of such company or parties, or any officer superintending such public works, and upon the application of the said receiver of the constabulary force, or any person by him authorized in writing, it shall be lawful for such justices, by their warrant under their hands and seals (which they are hereby authorized and required to grant), to cause the amount of such account to be levied, together with the expenses of levying the same, by distress and sale of the goods and chattels of the company or other parties carrying on such public works as aforesaid; and the surplus, if any, arising from such distress and sale, after deducting the amount of such account, together with the reasonable expenses attendant on such distress and sale, shall be rendered to the said company or parties.

Alteration of act.

4. And be it enacted, that this act may be amended or repealed by any act to be passed in this present session of parliament.

8 & 9 VICT. cap. 96.

An Act to restrict the powers of selling or leasing Railways contained in certain Acts of Parliament relating to such Railways. [4th August, 1845.]

Preamble. WHEREAS provisions have been introduced in various acts of parliament, during the present session of parliament, relating to railways, giving to railway companies general powers of granting or accepting a lease, sale, or transfer of their own or other lines of railway; and it is expedient that such powers should be restrained:

No railway to be leased or transferred, unless under a distinct provision of an Act specifying the parties.

Be it therefore enacted by the queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that it shall not be lawful for the company of proprietors of any railway, by virtue of any powers contained in any act passed in the present session, to make or grant, or for any other railway company or party, by virtue of any such powers, to accept, a sale, lease, or other transfer of any railway, unless under the authority of a distinct provision in some act of parliament to that effect specifying by name the railway to be so leased, sold, or transferred, and the company or party by whom such lease, sale, or transfer may be respectively made, granted, or accepted.

8 & 9 VICT. cap. 113.

An Act to facilitate the Admission in Evidence of certain official and other Documents.

[8th August, 1845.]

WHEREAS it is provided by many statutes that various certificates, official and public documents, documents and proceedings of corporations and of joint stock and other companies, and certified copies of documents, bye laws, entries in registers and other books, shall be receivable in evidence of certain particulars in courts of justice, provided they be respectively authenticated in the manner prescribed by such statutes: And whereas the beneficial effect of these provisions has been found by experience to be greatly diminished by the difficulty of proving that the said documents are genuine; and it is expedient to facilitate the admission in evidence of such and the like documents:

1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whenever by any act now in force or hereafter to be in force any certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, bye law, entry in any register or other book, or of any other proceeding, shall be receivable in evidence of any particular in any court of justice, or before any legal tribunal, or either House of Parliament, or any committee of either House, or in any judicial proceeding, the same shall respectively be admitted in evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone, as required, or impressed with a stamp and signed, as directed by the respective acts made or to be hereafter made, without any proof of the seal or stamp, where a seal or stamp is necessary, or of the signature or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original record could have been received in evidence.

2. And be it enacted, That all courts, judges, justices, Courts, &c. masters in chancery, masters of courts, commissioners to take judicially acting, and other judicial officers shall hence-

Preamble.
[This act is amended by 14 & 15 Vict. c. 99, but such amendments have no special reference to railways.]

Certain documents to be received in evidence without proof of seal or signature, &c. of person signing the same.

notice of
signature
of judges,
&c.

forth take judicial notice of the signature of any of the equity or common law judges of the superior courts at Westminster, provided such signature be attached or appended to any decree, order, certificate, or other judicial or official document.

Private
acts,
printed by
Queen's
printer, &c.
admissible
as evidence.

3. And be it enacted, 'That all copies of private and local and personal acts of Parliament not public acts, if purporting to be printed by the Queen's printers, and all copies of the journals of either House of Parliament, and of royal proclamations, purporting to be printed by the printers to the crown or by the printers to either House of Parliament, or by any or either of them, shall be admitted as evidence thereof by all courts, judges, justices, and others, without any proof being given that such copies were so printed.

Persons
forging
seal, stamp,
or signa-
ture of cer-
tain docu-
ments, or
print any
private act
with false
purport,
guilty of
felony.

4. Provided always, and be it enacted, That if any person shall forge the seal, stamp or signature of any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or of any certified copy of any document, bye law, entry in any register or other book, or other proceeding as aforesaid, or shall tender in evidence any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, bye law, entry in any register or other book, or of any other proceeding, with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, whether such seal, stamp, or signature be those of or relating to any corporation or company already established, or to any corporation or company to be hereafter established, or if any person shall forge the signature of any such judge as aforesaid to any order, decree, certificate, or other judicial or official document, or shall tender in evidence any order, decree, certificate, or other judicial or official document with a false or counterfeit signature of any such judge as aforesaid thereto, knowing the same to be false or counterfeit, or if any person shall print any copy of any private act or of the journals of either House of Parliament, which copy shall falsely purport to have been printed by the printers to the crown, or by the printers to either House of Parliament, or by any or either of them, or if any person shall tender in evidence any such copy, knowing that the same was not printed by the person or persons by whom it so purports to have been printed, every such person shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not more than three nor less than one year, with

By the Law
of Evidence
Amend-
ment Act,
14 & 15
Vict. c. 99,
s. 17,
offenders
under this
act may be
dealt with
in any
county or
place in
which ap-
prehended
or in cus-
tody.

hard labour: Provided also, that whenever any such document as beforementioned shall have been received in evidence by virtue of this act, the court, judge, commissioner, or other person officiating judicially who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized, at its or at his own discretion, to direct that the same shall be impounded, and be kept in the custody of some officer of the court or other proper person, until further order touching the same shall be given, either by such court, or the court to which such master or other officer belonged, or by the persons or person who constituted such court, or by some one of the equity or common law judges of the superior courts at Westminster on application being made for that purpose.

5. And be it enacted, That this act shall not extend to Scotland.

6. And be it enacted, That this act may be repealed, Act may be altered, or amended during this present session of Parliament.

7. And be it enacted, That this act shall take effect from the first day of November next after the passing thereof.

9 VICT. cap. 20.

An Act to amend an Act of the Second Year of her present Majesty, for providing for the Custody of certain Monies paid, in pursuance of the Standing Orders of either House of Parliament, by Subscribers to Works or Undertakings to be effected under the Authority of Parliament.

[18th June, 1846.]

WHEREAS an act was passed in the second year of the reign of her present Majesty Queen Victoria, intituled "An Act to provide for the Custody of certain Monies paid, in pursuance of the Standing Orders of either House of Parliament, by Subscribers to Works or Undertakings to be effected under the Authority of Parliament:" And whereas it is expedient that the said act should be repealed, and should be re-enacted, with such modifications, extensions, and alterations as after mentioned:

1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords

1 & 2 Vict.
c. 117.

Monies already paid in to be dealt with as directed by former act.

Authority to deposit.

spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said act shall be and is hereby repealed : Provided always, that all acts done under the provisions of the said act shall be good, valid, and effectual to all intents and purposes, and that all sums of money paid under the provisions of the said act shall be dealt with in all respects as if this act had not been passed.

2. And be it enacted, That in all cases in which any sum of money is required by any standing order of either House of Parliament, either now in force or hereafter to be in force, to be deposited by the subscribers to any work or undertaking which is to be executed under the authority of an act of Parliament, if the director or person or directors or persons having the management of the affairs of such work or undertaking, not exceeding five in number, shall apply to one of the clerks in the office of the clerk of the Parliaments with respect to any such money required by any standing order of the Lords spiritual and temporal in Parliament assembled, or to one of the clerks of the private bill office of the House of Commons with respect to any such money required by any standing order of the Commons in Parliament assembled, to be deposited, it shall be lawful for the clerk so applied to, by warrant or order under his hand, to direct that such sum of money shall be paid in manner hereinafter mentioned ; (that is to say,) into the Bank of England, in the name and with the privy of the accountant-general of the Court of Chancery in England, if the work or undertaking in respect of which the sum of money is required to be deposited is intended to be executed in that part of the United Kingdom called England, or into any of the banks in Scotland established by act of Parliament or royal charter, in the name and with the privy of the Queen's remembrancer of the Court of Exchequer in Scotland, at the option of the person or persons making such application as aforesaid, in case such work or undertaking is intended to be executed in that part of the United Kingdom called Scotland, or into the Bank of Ireland, in the name and with the privy of the accountant-general of the Court of Chancery in Ireland, in case such work or undertaking is intended to be made or executed in that part of the United Kingdom called Ireland ; and such warrant or order shall be a sufficient authority for the accountant-general of the Court of Chancery in England, the Queen's remembrancer of the Court of Exchequer in Scotland, and the accountant-general of the Court of Chancery in Ireland, respectively, to permit the sum of money directed to be paid by such warrant or order to be placed to an account opened or to

be opened in his name in the bank mentioned in such warrant or order.

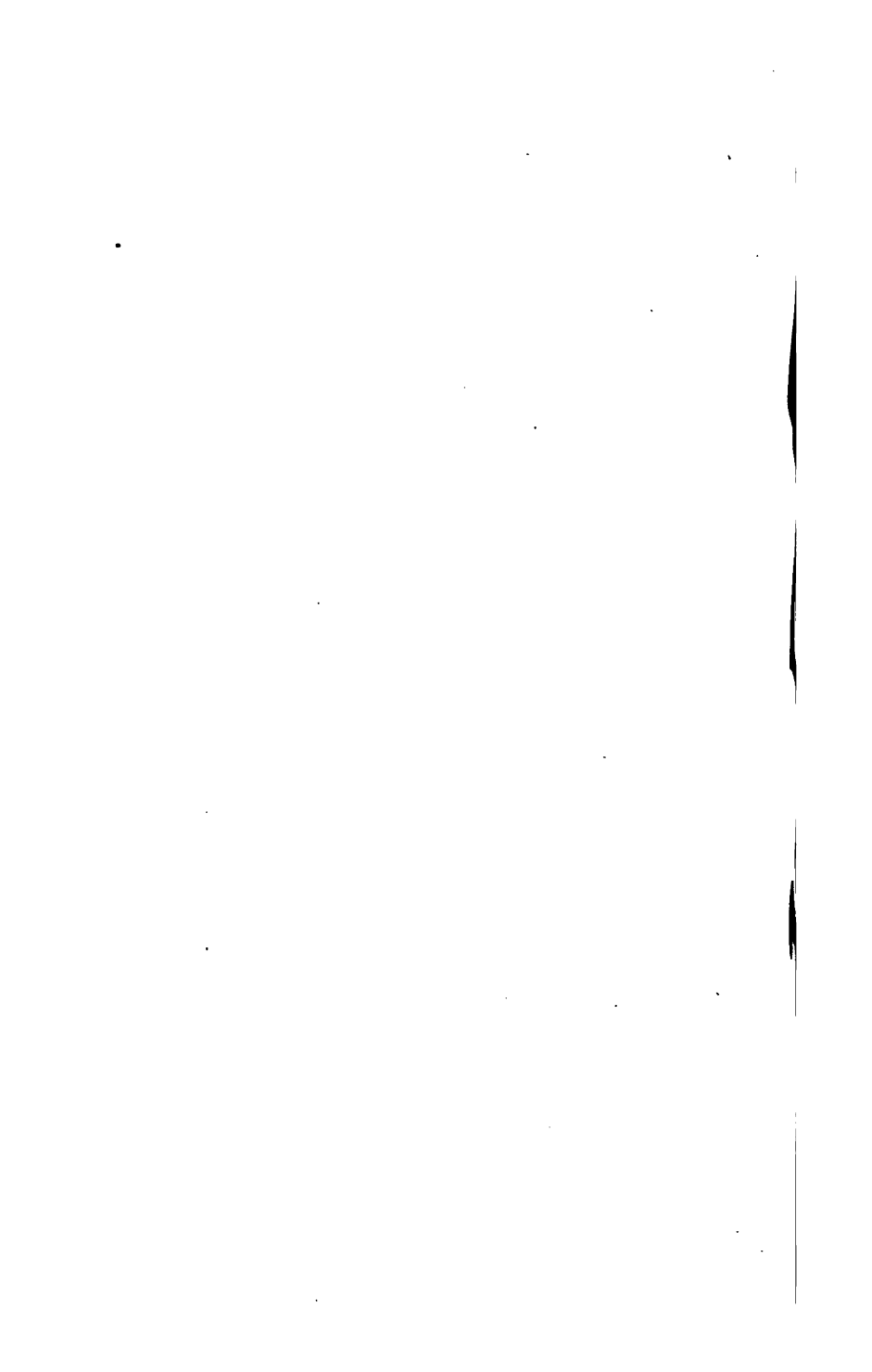
3. And be it enacted, That it shall be lawful for the Payment of person or persons named in such warrant or order, or the deposit. survivors or survivor of them, to pay the sum mentioned in such warrant or order into the bank mentioned in such warrant or order in the name and with the privity of the officer or person in whose name such sum shall be directed to be paid by such warrant or order, to be placed to his account there *ex parte* the work or undertaking mentioned in such warrant or order, pursuant to the method prescribed by any act or acts for the time being in force for regulating monies paid into the said courts, and pursuant to the general orders of the said courts respectively, and without fee or reward; and every such sum so paid in, or the securities in or upon which the same may be invested as hereinafter mentioned, or the stocks, funds, or securities authorized to be transferred or deposited in lieu thereof as hereinafter mentioned, shall there remain until the same, with all interest and dividends, if any, accrued thereon, shall be paid out of such bank, in pursuance of the provisions of this act: Provided always, that in case any such If money director or person, directors or persons having the previously management of any such proposed work or undertaking invested in as aforesaid, shall have previously invested in the three government per centum consolidated or the three per centum reduced securities such securities bank annuities, exchequer bills or other government securities to be deposited. the sum or sums of money required by any such standing order of either House of Parliament as aforesaid to be deposited by the subscribers to any work or undertaking which is to be executed under the authority of an act of Parliament, it shall be lawful for the person or persons named in such warrant or order, or the survivors or survivor of them, to deposit such exchequer bills or other government securities in the bank mentioned in such warrant or order in the name and with the privity of the officer or person in whose name such sum shall by such warrant or order be directed to be paid, or to transfer such government stocks or funds into the name of the officer or person; and such transfer or deposit shall be directed by such clerk of the office of the clerk of the Parliaments, or such clerk of the private bill office of the House of Commons, as the case may be, in lieu of payment of so much of the sum of money required to be deposited as aforesaid as the same exchequer bills or other the government stocks or funds will extend to satisfy at the price at which the same were originally purchased by the said person or persons, director or directors as aforesaid, such price to be proved by production of the broker's certificate of such original purchase.

Investment of deposit. 4. And be it enacted, That if the person or persons named in such warrant or order, or the survivors or survivor of them, desire to have invested any sum so paid into the bank of England or the bank of Ireland, or any interest or dividend which may have accrued on any stocks or securities so transferred or deposited as aforesaid, the court in the name of whose accountant-general the same may have been paid may, on a petition presented to such court in a summary way by him or them, order that such sum or such interest or dividends shall, until the same be paid out to the parties entitled to the same in pursuance of this act, be laid out in the three per centum consolidated or three per centum reduced bank annuities, or any government security or securities, at the option of the aforesaid person or persons. or the survivor or survivors of them

Repayment of deposit. 5. And be it enacted, That on the termination of the session of Parliament in which the petition or bill for the purpose of making or sanctioning any such work or undertaking shall have been introduced into Parliament, or if such petition or bill shall be rejected or finally withdrawn by some proceeding in either House of Parliament, or shall not be allowed to proceed, or if the person or persons by whom the said money was paid or security deposited shall have failed to present a petition, or if an act be passed authorizing the making of such work or undertaking, and if in any of the foregoing cases the person or persons named in such warrant or order, or the survivors or survivor of them, or the majority of such persons, apply by petition to the court in the name of whose accountant-general the sum of money mentioned in such warrant or order shall have been paid, or such exchequer bills, stocks, or funds shall have been deposited or transferred as aforesaid, or to the court of exchequer in Scotland, in case such sum of money shall have been paid in the name of the said Queen's remembrancer, the court in the name of whose accountant-general or Queen's remembrancer such sum of money shall have been paid, or such exchequer bills, stocks, or funds shall have been deposited or transferred, shall by order direct the sum of money paid in pursuance of such warrant or order, or the stocks, funds, or securities in or upon which the same may have been invested, and the interest or dividends thereof, or the exchequer bills, stocks, or funds so deposited or transferred as aforesaid, and the interest and dividends thereof, to be paid or transferred to the party or parties so applying, or to any other person or persons whom they may appoint in that behalf; but no such order shall be made in the case of any such petition or bill being rejected or not

See 28 &
29 Vict. c.
27, s. 8.

being allowed to proceed, or being withdrawn or not being presented, or of an act being passed authorizing the making of such work or undertaking, unless upon the production of the certificate of the chairman of committees of the House of Lords with reference to any proceeding in the House of Lords, or of the Speaker of the House of Commons with reference to any proceeding in the House of Commons, that the said petition or bill was rejected or not allowed to proceed, or was withdrawn during its passage through one of the Houses of Parliament, or was not presented, or that such act was passed, which certificate the said chairman or Speaker shall grant on the application in writing of the person or persons, or the majority of the persons named in such warrant, or the survivor or survivors of them : Provided always, that the granting of *Proviso.* any such certificate, or any mistake or error therein or in relation thereto, shall not make the chairman or Speaker signing the same liable in respect of any monies, stocks, funds, and securities which may be paid, deposited, invested, or transferred in pursuance of the provisions of this act, or the interest or dividends thereof.



9 & 10 VICT. cap. 57.

An Act for regulating the Gauge of Railways.
[18th August, 1846.]

WHEREAS it is expedient to define the gauge on which Preamble.
railways shall be constructed.

1. Be it enacted by the Queen's most excellent Majesty, On what
by and with the advice and consent of the Lords spiritual and gauge rail-
temporal, and Commons, in this present Parliament assem- ways shall
bled, and by the authority of the same, That after the be made.
passing of this act it shall not be lawful (except as herein-
after excepted) to construct any railway for the conveyance
of passengers on any gauge other than four feet eight inches
and half an inch in Great Britain, and five feet three inches
in Ireland: Provided always, that nothing hereinbefore Proviso.
contained shall be deemed to forbid the maintenance and
repair of any railway constructed before the passing of this
act on any gauge other than those hereinbefore specified,
or to forbid the laying of new rails on the same gauge on
which such railway is constructed within the limits of de-
viation authorized by the several acts under the authority
of which such railways are severally constructed.

2. And be it enacted, That nothing hereinbefore con- Exception
tained shall apply to any railway constructed or to be con- of certain
structed under the provisions of any present or future act railways.
containing any special enactment defining the gauge or
gauges of such railway, or any part thereof, or to any rail-
way which is in its whole length southward of the Great
Western Railway, or to any railway in any of the counties
of Cornwall, Devon, Dorset, or Somerset, for which any
act has been or shall be passed in this session of Parliament,
or to any railway in any of the last-mentioned counties now
in course of construction, or to the two railways severally
to be constructed under the authority of two acts passed in
this session of Parliament, severally intituled "An Act for
making a Railway from the Great Western Railway at
West Drayton to Uxbridge in Middlesex," and "An Act
for making a Railway from the Great Western Railway at
Maidenhead in Berkshire to the town of High Wycombe
in the county of Buckingham;" or to so much of an act
passed in this session, intituled "An Act to authorize cer-
tain Extensions of the Line of the Oxford, Worcester, and
Wolverhampton Railway, and to amend the act relating
thereto, as authorizes the construction of a Branch Railway
from the Oxford, Worcester, and Wolverhampton Railway

to the town of Witney in the county of Oxford;" or to an act passed or which may be passed in this session of Parliament, "to authorize the construction of a railway from Melin-y-Manach to Rhydydefydd in the county of Glamorgan."

Certain railways to be on the broad gauge.

3. And be it enacted, That the several railways authorized to be constructed by an act passed in the last session of Parliament, intituled "An Act for making a Railway to be called The South Wales Railway," and by an act also passed in the last session of Parliament, intituled "An Act for making a Railway from Monmouth to Hereford, with branches therefrom to Westbury and to join the Forest of Dean Railway," and by two acts passed in this session of Parliament, severally intituled "An Act for completing the Line of the South Wales Railway, and to authorize the Construction of an Extension and certain Alterations of the said Railway, and certain Branch Railways in connexion therewith," and "An Act for making a Railway communication between the city of Bristol and the proposed South Wales Railway in the county of Monmouth, with a Branch Railway therefrom," shall be constructed on the gauge of seven feet.

Gauge not to be altered.

4. And be it enacted, That it shall not be lawful after the passing of this act to alter the gauge of any railway used for the conveyance of passengers.

Provision as to the Oxford and Rugby, and Oxford, Worcester, and Wolverhampton railways.

5. And be it enacted, That nothing hereinbefore contained shall be deemed to affect the provisions of two acts passed in the last session of Parliament, respectively intituled "An Act for making a Railway from the city of Oxford to the town of Rugby," and "An Act for making a Railway from Oxford to Worcester and Wolverhampton," with respect to the gauge on which they are to be formed, or the additional rails which, according to the several provisions of the last two recited acts, are to be or may be laid down and maintained on the railways thereby authorized, or with respect to the powers thereby conferred on the commissioners of her Majesty's privy council for trade and foreign plantations concerning the construction and use of the railways thereby authorized.

Penalty on company for constructing railways contrary to this act.

6. And be it enacted, That if any railway used for the conveyance of passengers shall be constructed or altered contrary to the provisions of this act, the company authorized to construct the railway, or in the case of any demise or lease of such railway, the company for the time being having the control of the works of such railway, shall forfeit ten pounds for every mile of such railway which shall be so unlawfully constructed or altered, during every day that the same shall continue so unlawfully constructed or

altered; and in estimating the amount of any such penalty any distance less than one mile shall be estimated as a mile.

7. And be it enacted, That, over and above the penalty **Railways** hereinbefore provided, if any railway used for the convey- **constructed** ance of passengers shall be constructed or altered contrary **contrary to** to the provisions of this act, it shall be lawful for the com- **this act** missioners of her Majesty's woods, forests, land revenues, **may be** works, and buildings, or for the lords of the committee of **abated.** her Majesty's privy council for trade and foreign planta- tions, to abate and remove the same or any part thereof so constructed or altered contrary to the provisions of this act, and to restore the site thereof to its former condition.

8. And be it enacted, That all penalties under this act **Recovery of** may be recovered from the company liable to pay and make **penalties.** good the same, as under the provisions of an act passed in the last session of Parliament, intituled "An Act for con- **8 & 9 Vict.** solidating in one act certain provisions usually inserted in **c. 20.** acts authorizing the making of railways," a penalty for any infringement of the last-recited act is recoverable against a company authorized to construct a railway.

9. And be it enacted, That this act may be amended **Act may be** or repealed by any act to be passed in this session of Par- **amended,** liament.

ACCIDENTS COMPENSATION, 1846.

9 & 10 Vict. cap. 93. An Act for compensating the Families of Persons killed by Accidents.

[26th August, 1846.]

[Amended
by 27 & 28
Vict. c. 95.]

WHEREAS no action at law is now maintainable against a person who by his wrongful act, neglect, or default may have caused the death of another person, and it is oftentimes right and expedient that the wrongdoer in such case should be answerable in damages for the injury so caused by him: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

An action to be maintainable against any person causing death through neglect, &c., notwithstanding the death of the person injured.

1. That whensoever the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect, or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

Action to be for the benefit of certain relations, and shall be brought by and in the name of executor or administrator of the deceased.

2. And be it enacted, That every such action shall be for the benefit of the wife, husband, parent, and child of the person whose death shall have been so caused, and shall be brought by and in the name of the executor or administrator of the person deceased; and in every such action the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties in such shares as the jury by their verdict shall find and direct.

Only one action shall lie, and to be

3. Provided always, and be it enacted, That not more than one action shall lie for and in respect of the same

9 & 10 VICT. c. 93, i.

subject matter of complaint; and that every such action shall be commenced within twelve calendar months after the death of such deceased person.

9 & 10 VICT.
CAP. 93.

4. And be it enacted, That in every such action the plaintiff on the record shall be required, together with the declaration, to deliver to the defendant or his attorney a full particular of the person or persons for whom and on whose behalf such action shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

commenced
within 12
months.

Plaintiff to
deliver a full
particular of
the person
for whom
such da-
mages shall
be claimed.

Construc-
tion of act.

5. And be it enacted, That the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter; that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things; and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grandfather and grandmother, and stepfather and stepmother; and the words "child" shall include son and daughter, and grandson and granddaughter, and stepson and stepdaughter.

6. And be it enacted, That this act shall come into operation from and immediately after the passing thereof, and that nothing therein contained shall apply to that part of the United Kingdom called Scotland.

Act to take
effect after
passing, and
not to apply
to Scotland.

7. And be it enacted, That this act may be amended or repealed by any act to be passed in this session of Parliament.

Act may be
amended,
&c.

10 & 11 VICT. cap. 85.

An Act for giving further Facilities for the Transmission of Letters by Post, and for the regulating the Duties of Postage thereon, and for other Purposes relating to the Post Office. (So far as relates to Railways.) [22nd July, 1847.]

Power to send mails by railways in manner prescribed by 1 & 2 Vict. c. 98, without a guard.

16. AND whereas by an act passed in the second year of the reign of her present majesty, intituled, "An Act to provide for the Conveyance of the Mails by Railways," provision is made for the transmission of the mails by railways; be it enacted, That it shall be lawful for the postmaster general to require, in the manner prescribed by the said last-mentioned act, that any mails and post letter bags shall be conveyed and forwarded by any railway company on their railway, under and pursuant to the said act, notwithstanding any guard or other officer of the post office shall not be sent with the same or in charge thereof, and such mails and post letter bags shall be conveyed and forwarded by such railway company accordingly.

11 & 12 VICT. cap. 72.

An Act to amend the Acts relating to the Constabulary Force in Ireland, and to amend the Provisions for the Payment of Special Constables, (so far as relates to Railways.)

[31st August, 1848.]

WHEREAS it is expedient to alter and amend several Preamble. provisions of the acts relating to the constabulary force in Ireland: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

1. That it shall and may be lawful for the lord lieu- Power to tenant or other chief governor or governors of Ireland lord lieu- to fix and appoint such annual salary as may from time tenant, &c. to time to him or them seem proper to be paid to each to fix sala- constable appointed or to be appointed under any of the ries of con- acts now in force relating to the constabulary force in stables. Ireland, not exceeding thirty-eight pounds for each mounted constable, and thirty-six pounds for each dis- mounted constable, and to direct that such annual salary shall commence on and from the first day of April in this present year.

4. And whereas it is expedient to fix and determine Rate of the sum to be charged upon each county, or any part or charge on district thereof, or any county of a city or county of a counties and bo- town in Ireland, in all cases where, by the laws now in roughs for force, one moiety of the costs and expenses of any con- constabu- stabulary force is chargeable thereupon respectively, and lary force also the sum to be charged upon any borough for which appointed a constabulary force shall be appointed in compliance on appli- with a memorial from the town council of such borough, cation of in pursuance of an act of the third and fourth years of town coun- the reign of her present majesty, intituled "An Act for cil of a the Regulation of Municipal Corporations in Ireland;" borough, be it enacted, that from and after the thirty-first day of 3 & 4 Vict. March, one thousand eight hundred and forty-eight in all c. 108. such cases as aforesaid there shall be chargeable to each [Repealed such county, county of a city, county of a town, or by 29 & 30 borough, per annum, for each sub-inspector one moiety Vict. c. 103, of the sum of one hundred and sixty pounds, for each s. 12.]

head constable one moiety of the sum of seventy pounds, and for each constable or sub-constable one moiety of the sum of thirty-five pounds two shillings and sixpence, and so in proportion for every fractional part of a year.

Proportion of sub-inspectors and head constables to additional force appointed on certificate of magistrates, or application from town council of a borough.

5. And be it enacted, that in all cases where an additional constabulary force shall have been certified by the magistrates of any county at large, at any general or special sessions, as now by law provided to be necessary for the due execution of the law within such county, and shall be appointed in conformity with such certificate, and also in all cases where an additional constabulary force shall be appointed for any borough in pursuance of the provisions of the said act of the third and fourth years of the reign of her present majesty, it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland to appoint one sub-inspector for every fifty constables and sub-constables, and one head constable for every twenty-five constables and sub-constables, who may have been so appointed; and the expense of such sub-inspectors and head constables shall be chargeable upon such county or borough respectively, and be repaid by grand jury presentment, or from the borough fund, in the same manner as the expense of the constables and sub-constables who may have been so appointed.

Where constabulary shall be required under 8 & 9 Vict. c. 46, to keep the peace near railway works, company, &c. requiring the same to pay the expense.

7. And whereas by an act of the eighth and ninth years of her present majesty's reign, intituled "An Act for the Appointment of additional Constables for keeping the Peace near Public Works in Ireland," provision is made for the appointment and payment of additional head and other constables for keeping the peace in certain cases in the neighbourhood of railway works or other public works in Ireland; be it enacted, that whenever such additional head or other constables shall have been or shall be appointed and employed for the purposes and under the provisions of the said last-recited act, the company or other parties carrying on such railway or other public works shall be chargeable for the expense of such head and other constables as in the said act provided, but according to the proportion of head and other constables herein-before provided, and also according to the scale of charge herein-before provided for head and other constables, save that such company or parties shall be chargeable for the whole and not for the moiety only of such respective rates of charge.

See 29 & 30 Vict. c. 103, s. 13.

13 VICT. cap. 21.

An Act for shortening the Language used in Acts of Parliament. [10th June, 1850.]

1. Be it declared and enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That every act to be passed after the commencement of this act may be altered, amended, or repealed in the same session of Parliament, any law or usage to the contrary notwithstanding.

2. Be it enacted, That all acts shall be divided into sections, if there be more enactments than one, which sections shall be deemed to be substantive enactments, without any introductory words.

3. Be it enacted, That in any act, when any former act is referred to, it shall be sufficient, if such act was made before the seventh year of Henry the Seventh, to cite the year of the King's reign in which it was made, and where there are more statutes than one in the same year the statute, and where there are more chapters than one the chapter; and if such act referred to was made after the fourth year of Henry the Seventh, to cite the year of the reign, and where there are more statutes or sessions than one in the same year the statute or the session (as the case may require), and where there are more chapters or sections than one the chapter or section or chapter and section (as the case may require), without reciting the title of such act, or the provision of such section, so referred to; and the reference in all cases shall be made according to the copies of statutes printed by the Queen's printer, or to the copies thereof contained in the Reports of the Commissioners of Public Records: provided that where it is only intended to amend or repeal any portion only of such section it shall be necessary still either to recite such portion or to set forth the matter or thing intended to be amended or repealed.

4. Be it enacted, That in all acts words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided; and the word "month" to mean calendar month, unless words be added showing lunar month to be intended; and "county" shall be held

to mean also county of a town or of a city, unless such extended meaning is expressly excluded by words; and the word "land" shall include messuages, tenements, and hereditaments, houses and buildings, of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and the words "oath," "swear," and "affidavit" shall include affirmation, declaration, affirming, and declaring, in the case of persons by law allowed to declare or affirm instead of swearing.

Repealed acts not to be revived. 5. Be it enacted, That where any act repealing in whole or in part any former act is itself repealed, such last repeal shall not revive the act or provisions before repealed, unless words be added reviving such act or provisions.

Repealed provisions how long to remain in force. 6. Be it enacted, That wherever any act shall be made repealing in whole or in part any former act, and substituting some provision or provisions instead of the provision or provisions repealed, such provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last made act.

Acts to be deemed public acts. 7. Be it enacted, That every act made after the commencement of this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such act.

Commencement of act. 8. Be it declared and enacted, That this act shall commence and take effect from and immediately after the commencement of the next session of Parliament.

13 & 14 VICT. cap. 33 [Local].

An Act for regulating legal Proceedings by or against the Committee of Railway Companies associated under the Railway Clearing System, and for other Purposes. [25th June, 1850.]

Preamble. WHEREAS for some time past arrangements have subsisted between several railway companies for the transmission without interruption of the through traffic in passengers, animals, minerals, and goods passing over different lines of railway, for the purpose of affording, in respect to such passengers, animals, minerals, and goods, the same or the like facilities as if such lines had belonged to one com-

pany, which arrangements are commonly known as and in this act are designated as "the clearing system," and which arrangements are conducted under the superintendence of a committee appointed by the boards of directors of such several railway companies, which committee is in this act designated "the committee," and the business of such committee has heretofore been and is now carried on at a building appropriated for the purpose in Seymour-street, adjoining the Euston Station of the London and North-western Railway Company: And whereas the clearing system has been productive of great convenience to the public, and of a considerable saving of expense in the transmission of passengers, animals, minerals, and goods over the lines of the several railway companies parties to such association; but considerable difficulty has been experienced in carrying into effect the objects of the association, in consequence of the committee not possessing the power of prosecuting or defending actions or suits, or taking other legal proceedings: And whereas George Carr Glyn Esquire is the present chairman, and Kenneth Morison is the present secretary of the committee: And whereas the purposes aforesaid cannot be effected without the authority of Parliament:

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the several companies which at the time of the passing of this act are parties to the clearing system, and every other company which shall in manner hereafter mentioned become party to the same, shall be subject to the provisions of this act.

2. And be it enacted, That if any company which may not be a party to the clearing system shall, by writing sealed with the common seal of such company, request the committee to admit such company to be a party to the clearing system, and the committee shall assent to such request, such company shall from the time of such assent being given, or at such other time as may be specified in the said request, become a party to the clearing system.

3. And be it enacted, That if any company shall, by writing sealed with the common seal of such company, give notice to the committee of the desire of such company to cease to be a party to the clearing system, such company shall, at the expiration of one calendar month from the time when such notice shall be given, or if a more distant time shall be stated in such notice then at the time so stated, cease to be a party to the clearing system.

Committee
may give
company
notice to
retire.

4. And be it enacted, That if not less than two-thirds of the committee present at a meeting specially summoned shall, by writing signed by their secretary, or by two members of the committee, give notice to any company that such company shall cease to be a party to the clearing system at a time named in such notice, not being less than one calendar month from the time of giving such notice, such company shall at the time so named cease to be a party to the clearing system.

Appoint-
ment of the
committee.

5. And be it enacted, That each company party to the clearing system shall at all times be entitled to be represented on the committee by one delegate appointed by the board of Directors of such company from time to time, such appointment to be certified in writing by the secretary or any two directors of such company: Provided always, that, notwithstanding any company may happen to be unrepresented by a delegate at any meeting, the acts of the committee shall be valid.

Meetings
of the com-
mittee, quo-
rum, &c.

6. And be it enacted, That the committee shall meet at one of the clock in the afternoon of the second Wednesday in the months of March, June, September, and December in every year, or so soon thereafter as a quorum shall be assembled, and at any other times whereof the secretary shall, at the written request of the chairman for the time being, or any two members of the committee, give at least ten days notice in writing to every company party to the clearing system, or the secretary of every such company; and every such meeting may be adjourned from time to time and from place to place as the committee shall think proper; and meetings and adjourned meetings of the committee shall be held at the said building in Seymour-street, except when the committee shall have appointed some other place, and then at such other place; and in order to constitute a meeting of the committee there shall be present at least ten members; and, except where otherwise provided, all questions at every meeting shall be determined by the majority of votes of the committee present, and in case of an equal division of votes the chairman of the meeting shall have a casting vote, in addition to his vote as one of the committee; and notice of the business to be brought before any meeting shall, at least six days before the day of such meeting, be given to every company party to the clearing system, or the secretary of every such company.

Appoint-
ment of the
chairman.

7. And be it enacted, That until the first meeting of the committee which shall be held after the passing of this act the said George Carr Glyn, or other the chairman of the committee for the time being, shall continue in office; and at the first meeting of the committee which

shall be held after the passing of this act, and in the month of March in each succeeding year, the committee present at the meeting shall, if they think fit, either continue in office the chairman for the time being, or choose another chairman; and a general meeting of the committee specially summoned shall have power to remove any chairman; and if any chairman shall die, or resign, or be removed, the committee shall have power, as soon as may be, to choose some other person to fill the vacancy thereby occasioned; but every chairman elected to supply a vacancy other than at a general meeting in the month of March in any year shall continue in office so long only as the person in whose place he shall be so elected would have been entitled to continue if such death, resignation, or removal had not happened: Provided always, that it shall not be necessary that the person chosen as chairman be a delegate of any of the companies parties to the clearing system; but in case he shall not be a delegate he shall not be entitled to vote on any question, unless in the case of an equality of votes, when he shall be entitled to give the casting vote.

8. And be it enacted, That if at any meeting of the Temporary committee the chairman shall not be present the committee present shall choose one of their members to be chairman of such meeting.

9. And be it enacted, That the said Kenneth Morison shall be the secretary to the committee until he die, or resign, or be removed; and that the committee shall have the power to remove him and all future secretaries; and that in the event of the resignation, or death, or such removal as aforesaid of any secretary, the committee shall appoint a secretary to the committee.

10. And be it enacted, That the committee may from time to time appoint a treasurer, and remove such treasurer from his appointment, and prescribe and alter the duties of the office of treasurer, and take from the treasurer such security as they shall think fit, which security may be taken in the name or names of such person or persons as the committee approve of.

11. And be it enacted, That any money which shall be received by the committee shall be held by the committee as trustees for the company or companies to whom the committee shall decide such money to be payable; but no member of the said committee shall be answerable for any such money as may be lost or withheld by reason of the misconduct, default, or insolvency of the treasurer, or of any banker or agent in whose hands the same may be, or by reason of any cause other than the personal misconduct of such member.

Accounts to be settled, and balance ascertained and declared by the committee. 12. And be it enacted, That the accounts of the clearing system, and the balances due to and from the several companies parties thereto, shall be settled and adjusted by the secretary of the committee for the time being, which secretary shall also settle and determine the amount to be from time to time contributed to the funds of the clearing system by the companies parties thereto; and in case of any difference respecting such accounts the decision of the committee, to the effect that any balance or sum is payable by any company then or theretofore party to the clearing system, shall be final and conclusive, and such sum or balance shall be a debt due to the said committee.

Expenses to be paid out of the funds of the clearing system. 13. And be it enacted, That the committee shall, out of the funds of the clearing system, pay all the expenses of the clearing system, and all costs, charges, damages, and expenses which the members of the committee, or any of either of them, shall as such members or member, or which the secretary as nominal plaintiff or defendant, or other party, on behalf of the committee, bear, sustain, or be put to, and that the members of the committee and secretary shall be completely indemnified and saved harmless out of the funds of the clearing system, and by the companies parties to the clearing system, of, from, and against all action and actions, suit and suits, proceeding and proceedings, of any sort, costs, charges, damages, and expenses, to which they or any or either of them may in any way be subjected, as members or member of the committee, by reason of anything which they or he may *bonâ fide* do or omit to do, whether such deed or omission be within their powers or not.

Committee may sue for balances or sums due. 14. And be it enacted, That the committee may, by action of debt in the name of their secretary, recover from any company any balance or sum which such committee shall decide to be payable by such company, whether to any other company or on account of the clearing system, and whether such company be still at the time of such decision or has then ceased to be a party to the clearing system, and whether such sum or balance shall or shall not have been previously ascertained by the secretary to be payable.

Form of action. 15. And be it enacted, That the declaration for the recovery of such sum or balance may be in the form or to the effect of the form given in the schedule (A.) to this act annexed, and that the directions contained in the said schedule for the use of the same shall be taken as part of this act.

Evidence. 16. And be it enacted, That if the defendants in such action shall plead that they never were indebted, then, on proof, that the committee decided the sum in question to be payable by the defendants, and that the defendants were either at the time of such decision or at some previous time

a party to the clearing system, and in the latter case upon further proof that such sum was decided to be payable in respect of some transactions, matters, or expenses which happened or were sustained whilst the defendants were parties to the clearing system, the plaintiff shall be entitled to a verdict on that plea.

17. And be it enacted, That the defendants in such **Plea.** action may plead any matter showing that they have since the time of the decision discharged the sum or balance so decided to be payable, and shall not plead any plea with a plea denying the plaintiff to be secretary.

18. And be it enacted, That the committee shall cause **Entries in books.** notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by them, and of the orders and proceedings of all their meetings, to be duly entered in books to be kept by them for that purpose; and every such entry shall be signed by the chairman of the meeting at which such appointments, contracts, orders, or proceedings respectively took place, who shall add the word "Chairman" to his signature, and which entries may be made and signed either at or after the meetings to which they respectively relate, and every entry purporting to be so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being members of the committee, or of the signature of such chairman, or of the fact of his having been chairman, all which last-mentioned matters shall be presumed, till the contrary be proved.

19. And be it enacted, That on the trial of any such **Books to be evidence, and committee and secretary witnesses.** action, after it is proved to the satisfaction of the court or judge trying the cause that such company is or had once been such a party, the books kept by the committee shall be *prima facie* evidence of the truth of the matters therein stated and contained: and the secretary, although the nominal plaintiff, and the members of the committee, shall be competent witnesses, either for the plaintiff or for the defendants.

20. And be it enacted, That the committee may in all **Committee may sue or be sued in the name of their secretary.** cases sue and be sued in the name of the secretary to the committee; and that in all proceedings at law and in equity, and in bankruptcy, or of any other sort, whether civil or criminal, the name of the secretary may be used instead of the names of the members of the committee; and proofs, in cases of bankruptcy, insolvency, or in winding-up affairs, may be made by the secretary for the committee.

21. And be it enacted, That in any indictment or **In criminal proceed.** information for any felony or misdemeanor wherein it shall be necessary to state the ownership of any property **ings pro-**

party of
committees
to be
deemed the
property of
secretary.

whatsoever, whether real or personal, and the same shall either belong to the committee or be in their custody, or in the custody or possession of any officer, clerk, or servant of the committee, or of any person employed for the purpose or in the capacity of clerk or servant by the committee, or in or on any building or land used for the purposes of the clearing system, or shall be used or intended to be used for the purposes of the clearing system, it shall be sufficient to state such property to belong to the secretary of the committee.

Criminal
proceed-
ings to be
prosecuted
in name of
secretary.

22. And be it enacted, That in any indictment for embezzlement, wherein it shall be necessary to state the party charged with the embezzlement to have been the clerk or servant of some master or masters, or to have been employed for the purpose or in the capacity of clerk or servant by some master or masters, and such masters shall have been the committee, it shall be sufficient in such indictment to name the secretary of the committee in every place in such indictment where the names of the members of the committee would but for this enactment be required to be inserted.

Service of
notices.

23. And be it enacted, That every notice or requisition on the business of the clearing system, or given pursuant to this act, shall be sufficient if it be in writing signed by the secretary of the committee, or secretary or other officer of the company giving the same, and if it be sent by the general post addressed to the secretary of the company for whom the same is intended, in case such notice or requisition be intended for any company, or to the secretary at the principal office of the clearing system, in case such notice or requisition be intended for the committee; and proof of such notice or requisition being deposited in any public letter box or receiving house for letters, intended to be forwarded by the general post, shall be deemed proof of the due service of such notice or requisition; and notices or requisitions for each member of the committee shall be sufficient if sent in manner aforesaid, addressed to him at the principal office of the company whom he represents.

Mode in
which the
companies
and com-
mittee are
to be de-
scribed in
legal pro-
ceedings.

24. And be it enacted, That in all pleadings or proceedings, civil or criminal, when it shall be required to mention all the companies parties to the clearing system, or the committee, it shall be sufficient to mention the companies by the description of "The Companies Parties to the Clearing System mentioned in the Railway Clearing Act, 1850," and to describe the committee by the description of "The Clearing Committee mentioned in the Railway Clearing Act, 1850," without stating the names of the individual companies and members.

25. And be it enacted, That in all cases where the name of the secretary to the committee shall be used under the authority of this act, it shall be sufficient to name and describe him, and to state the authority for using his name, as in the form of declaration in schedule (A.)

Description of these secretaries in legal proceedings.

26. And be it enacted, That upon the death or removal of any secretary no action or suit or other proceeding pending in his name, as plaintiff or defendant or otherwise, either on behalf of or against the committee, shall abate or be stayed, but as soon as another secretary shall be appointed the name of such new secretary shall be therein-after used: and in an action at law such name shall, whether it be before or after judgment, be introduced by suggestion, to which no plea or demurrer shall be allowed; and the omission to make such suggestion, and an erroneous suggestion, shall be mere irregularities, and shall, on the application of the committee or of the party opposed to the committee, be rectified, but shall not otherwise be taken advantage of.

Actions, &c. not to abate on death or removal of secretary.

27. And be it enacted, That all the costs, charges, and expenses of obtaining and passing this act or incident thereto shall be paid by the said committee out of the first monies which shall come to their hands after the passing of this act.

Expenses of act.

28. And be it enacted, That this act may be called "The Railway Clearing Act, 1850," and shall be deemed to be a public act, and as such shall be judicially noticed.

Title of act

SCHEDULE A.

to wit. } *A.B.*, Secretary to the Clearing Committee } and now named by virtue of the Railway Clearing Act, 1850, by *C.D.* his attorney, complains of *X.Y.*, who have been summoned to answer the said *A.B.* in an action of debt, for that the Clearing Committee have decided that the sum of 100*l.* is payable by the defendants, as parties to the clearing system, by means whereof an action has accrued to the said committee to demand in the name of their secretary the said sum of 100*l.*, yet the defendants have not paid the same to the damage of the said committee of 10*l.*, and thereupon the plaintiff, by virtue of the said act, brings suit.

Schedule.

Directions for using the above Form.

Substitute for A.B. the Name of the Secretary, and for C.D. the Name of his Attorney, and for X.Y. the Name of the Company Defendant, and for the sums such sums as the case may require, and add the venue. Several counts may be inserted on the above model where several sums are sought to be recovered.

COURT OF CHANCERY (LANCASTER), 1850.

13 & 14 Vict. cap. 43. An Act to amend the Practice and Proceedings of the Court of Chancery of the County Palatine of Lancaster, (so far as it amends the Lands Clauses Act.)
[29th July, 1850.]

WHEREAS the court of chancery of the county palatine of Lancaster is an ancient court, and has been found greatly beneficial to the inhabitants of the said county palatine; and it is expedient, in order to extend the advantages of the said court, that certain alterations and improvements should be effected in the jurisdiction, practice, and proceedings thereof: And whereas the Queen's most excellent Majesty has been graciously pleased to sanction such alterations and improvements, notwithstanding that the same may affect her prerogatives and rights as duchess of Lancaster, or may create a charge upon the revenues of the said duchy: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same: Preamble.

12. And be it enacted, that all monies payable in respect of lands situate within the said county palatine, and which are authorized to be paid into or deposited in the bank of England to the account of the accountant general of the high court of chancery, under and by virtue of "The Lands Clauses Consolidation Act, 1845," or any local or special act passed or to be passed incorporating the provisions of the said last-mentioned act, or otherwise authorizing the taking or using of lands situate in the said county palatine, and also that all monies or securities held by any party who might be sued in the court of chancery of the said county palatine in respect thereof, and which under and by virtue of an act made and passed in the parliament held in the tenth and eleventh years of the reign of her present majesty, intituled "An Act for better securing Trust Funds, and for the Relief of Trustees," might be in like manner paid or transferred into or deposited in the bank of England, to the account of the said accountant general, may, from and after the passing of this act, be in like manner paid or transferred into or deposited in the bank

Money paid into court under 8 & 9 Vict. c. 18, for lands within the county palatine, and under 10 & 11 Vict. c. 96, may be paid into the bank of England, to the joint account of the clerk and registrar.

Amended by 17 & 18 Vict. c. 82, s. 13.

13 & 14 VICT.
CAP. 43.

of England, to the joint account of the clerk of the council of the duchy of Lancaster and of the registrar and comptroller of the said county palatine court in the matter in respect whereof such payment, transfer, or deposit shall be made, and the receipt of one of the cashiers of the said bank shall be a full discharge to the person paying or transferring or depositing the same; and such monies and securities, and all costs of application in respect thereof, shall be dealt with by the said court of chancery of the county palatine in the same manner as the same might be dealt with by the high court of chancery or by the lord high chancellor, or any of the judges of the said high court, if such monies or securities had been paid or transferred into or deposited in the bank of England to the credit of the accountant general of that court; and the lands in respect of which such payment, transfer, or deposit shall be made may be dealt with in the same manner as if it had been made in manner prescribed by "The Lands Clauses Consolidation Act:" Provided always, that no monies shall be so paid or deposited under or by virtue of "The Lands Clauses Consolidation Act, 1845," or any local or special act as aforesaid, in case the party who would have been entitled to the rents and profits of the lands in respect of which such monies shall be payable, or his or her guardian or committee in case of infancy or lunacy, shall at any time before such payment or deposit serve or cause to be served a notice in writing at the office of the company taking the lands, requesting them not to make the payment or deposit.

COURT OF EXCHEQUER (IRELAND), 1850.

13 & 14 Vict. cap. 51. An Act for the Transfer of the Equitable Jurisdiction of the Court of Exchequer to the Court of Chancery in Ireland (so far as it amends the Lands Clauses Act.)

[29th July, 1850.]

WHEREAS it is expedient to transfer to the court of chancery in Ireland the jurisdiction of the court of exchequer as a court of equity: Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same:

7. Provided always, and be it enacted, That no payment or transfer of any sum or sums of money to be at any time made out of any of the cash or funds so to be transferred as aforesaid, or out of any cash or funds to be at any time brought into the said court of chancery, or arise or be produced in said court in or by any suit or matter transferred to said court by force of this act as aforesaid, or to be at any time brought into said court of chancery under the provisions of "The Lands Clauses Consolidation Act, 1845," shall be subject or liable to the payment of poundage to the usher of the said court of chancery, any law or statute to the contrary notwithstanding.

Funds transferred to chancery not to be subject to usher's poundage.

8. And be it enacted, That in every case in which, by virtue of any act or acts of parliament, or otherwise, any sum or sums of money would, on or after the said first day of August one thousand eight hundred and fifty, be payable by any person or persons, or body politic or corporate, into the bank of Ireland, in the name or with the privy of the accountant general of the court of exchequer, and which, when paid in accordingly, would be subject to the order of the said court of exchequer sitting as a court of equity, the same sum and sums shall be payable and paid into the bank of Ireland in the name and with the privy of the accountant general of the court of chancery, to be placed to his account to the like credit as the same would have been payable if this act had not passed, but subject to the order of the said court of chancery; and in every case in which any money, funds, annuities or securities, or other property, would, on or after the said first day of

Money directed by any act, &c. to be paid into the bank to the credit of accountant general of the court of exchequer to become payable to the credit of accountant general of court of chancery.

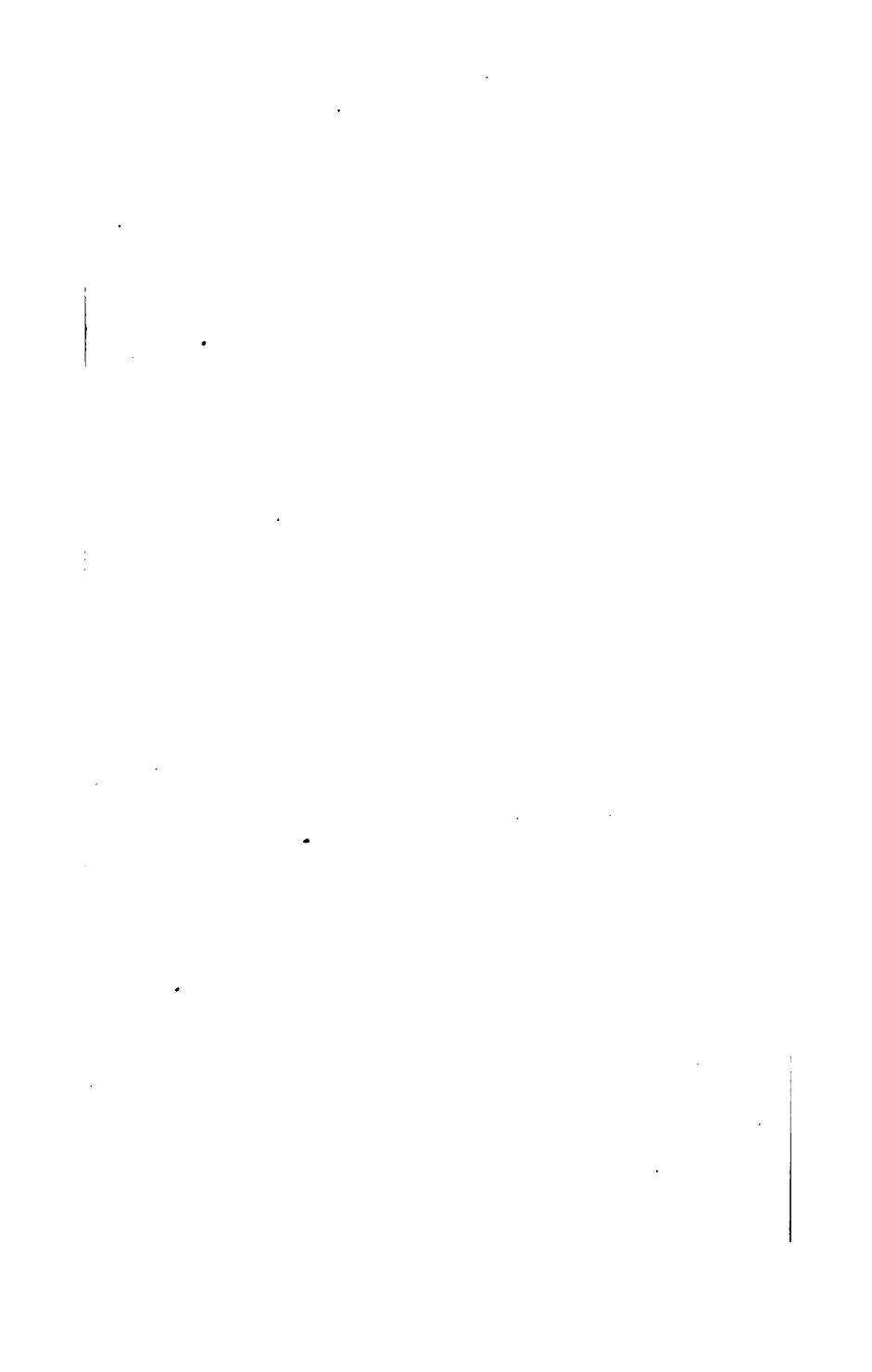
Stocks, &c. transferable into the

13 & 14 Vict.
CAP. 51.

name of the
accountant
general of
the court of
exchequer to
become
transferable
into the
name of the
accountant
general of
court of
chancery.

Amended by
18 & 19 Vict.
c. 50.

August, one thousand eight hundred and fifty, be payable or transferable into the name of or become vested in the accountant general of the said court of exchequer, and which, when paid or transferred accordingly, would be subject to the order of the same court sitting as a court of equity, the same money, funds, annuities, securities, and other property shall be paid, transferable, and transferred into the name of or vested in the accountant general of the said court of chancery, in trust to attend the order of the said court of chancery, and the same shall be applicable to the same purposes as the same would have been applicable if this act had not passed, except where otherwise directed by this act; and that all money, funds, annuities, securities, and property which shall be so paid and transferred into the name of the said accountant general of the court of chancery, and which, before the passing of this act, or in case this act had not passed, were paid or transferred, or would have been payable or transferable, to the accountant general of the court of Exchequer, by virtue of any act or acts already passed or hereafter to be passed, or other authority whatsoever, shall be held subject to such or the like orders and directions of the said court of chancery, and subject to such powers and provisions, as the same would have been subject to in case the same had been originally directed or authorized to have been paid and transferred into the name of the accountant general of the said court of chancery, and had been made originally subject to the orders and directions of the last-mentioned court; and the orders and directions of the said court of chancery relating thereto shall have the same force and effect as any like orders and directions of the court of exchequer relating thereto would have had if this act had not passed.



13 & 14 VICT. cap. 83.

An Act to facilitate the Abandonment of Railways, and the Dissolution of Railway Companies, in certain Cases. [14th August, 1850.]

Preamble. WHEREAS divers Joint Stock Companies have been incorporated by Act of Parliament for making railways, and it has been found that such railways, or certain parts thereof, cannot be made or carried on with advantage either to the promoters thereof or to the public, and it is expedient, therefore, that facilities should be given for the abandonment of such railways or parts of railways, and for the dissolution of such companies, or some of them, and winding up the concerns thereof:

Application
to Board of
Trade to be
allowed to
abandon
under-
taking.

"Board of
Trade," see
14 & 15
Vict. c. 64,
s. 1.

Directors
may call
meeting.

"Board of
Trade."

Share-
holders may
require
directors to
call meet-
ing.

1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any company authorized by Act of Parliament heretofore passed to make a railway desire that the making and carrying on of such railway or some part thereof, whether commenced or not, be abandoned, such company may, by the authority and with the consent of the holders of three-fifths of the shares or stock of such company, represented in manner hereinafter mentioned at a general meeting of shareholders to be convened in manner hereinafter mentioned, make application in writing to the *commissioners of railways*, setting forth the particulars of the railway or portion of the railway desired to be abandoned by them, and the grounds upon which such application is made.

2. And be it enacted, That it shall be lawful for the directors of any such railway company at any time to call a meeting of the shareholders thereof for the purpose of determining whether such application shall be made to the *commissioners of railways*, and so from time to time as they shall see fit.

3. And be it enacted, That it shall be lawful for any number of shareholders of any such company, not being less than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, but exclusive of any shares or stock held by or in the names of the directors of the com-

pany or any of them, or by or in the name of any person in trust for the directors or any of them, or for the company, and which shareholders shall have paid all the calls then due on the shares held by them, by writing under their hands to require the directors of such company to call a meeting for the purpose aforesaid; and upon the receipt of any such requisition such directors shall forthwith proceed to call a meeting of the shareholders of such company on a day to be named by them, not being less than fourteen nor more than twenty-eight days after the receipt of such requisition: Provided always, on the default of the directors to call and advertise such meeting within fourteen days after the receipt of the requisition, it shall be lawful for the requisitionists to call such meeting themselves, at a time and place to be appointed by them, of which fourteen days' notice shall be given by them by advertisement as hereinafter provided: Provided also, that when any meeting of any such company shall have been called pursuant to any such requisition as aforesaid, the directors of such company shall not be required to call any further meeting of such company upon any further requisition for the like object until twelve months shall have elapsed since the holding of such previous meeting.

4. And be it enacted, That after any such meeting has been called by the directors, or after the receipt of any such requisition as aforesaid, it shall not be lawful for the directors to make any payments out of the moneys of the company for the purposes of the railway proposed to be abandoned, except in discharge of *bonâ fide* debts or liabilities, or in performance of contracts or engagements previously entered into, and in payment of the expenses of calling and holding such meeting, nor to enter into any contracts or engagements on behalf of the company with respect to the railway so proposed to be abandoned, nor to make any calls, nor to register the transfer of any shares, until the meeting called as aforesaid shall have determined whether such application shall be made.

5. And be it enacted, That the calling of any such meeting shall be by public advertisement in the manner required or usually adopted for advertising the extraordinary general meetings of such company, and where such meeting is called by the directors of the company a circular letter shall be sent by the post addressed to each of the registered shareholders of such company, according to his registered address or other known address, seven clear days at least before the holding of such meeting, and stating that a general meeting of the shareholders of such company will be held at a time and place mentioned in such circular, for the purpose of determining whether

application shall be made to the commissioners of railways that such railway or the part thereof specified in such notice may be abandoned, and requesting such shareholder to signify his assent to or dissent therefrom, which may be according to a form to be contained in such circular letter, which form shall be to the effect set forth in the schedule hereto, and such circular letter shall request such shareholder either to return such form, signed by him, in a letter addressed to the secretary of such company, or to attend such general meeting as aforesaid, and deliver the same, so signed by him, to the chairman thereof; and in the case of every such meeting, whether called by the directors or by such requisitionists as aforesaid, the shareholders may signify their assent to or dissent from the proposed application, either by attending such meeting in person or by letter addressed to the secretary of the company, stating the assent or dissent of such shareholders, in a form which shall be to the effect of the form set forth in the schedule hereto, and signed by such shareholders respectively.

The number of the shareholders assenting or dissenting to be ascertained by scrutineers, and reported to the chairman.

6. And be it enacted, That at the meeting so to be called as aforesaid the scrutineers to be appointed as hereinafter mentioned shall cast up the amount of shares held by shareholders assenting to the making of such application, and the amount of shares held by shareholders dissenting therefrom, whether such assent or dissent have been signified by the shareholder sending to the secretary of the company such form as aforesaid, signed by him, or by such shareholder attending such meeting, and delivering in the same to the chairman thereof, and such scrutineers shall report to the chairman the amount of shares of the shareholders assenting to such application, and the amount of the shares of those dissenting therefrom, and the said chairman shall thereupon publicly announce to the meeting the said amounts respectively, and shall state whether or not the holders of three-fifths of the whole of such shares represented in manner aforesaid at the meeting consent to such application: Provided always, that in computing the amount of shares of the shareholders assenting or dissenting as aforesaid no share shall be taken into account the holder whereof shall not have been duly registered, or who shall not have paid all the calls then due by him upon all the shares held by him, unless such calls shall have been made within three months prior to the holding of such meeting, or if such meeting be held pursuant to a requisition of shareholders as hereinbefore provided, then three months prior to the day on which such requisition was presented to the directors.

7. And be it enacted, That the chairman of the directors of such company, if present, or in his absence the deputy chairman, if any, of such directors, shall be the chairman of such meeting as aforesaid, or if neither such chairman nor deputy chairman of the directors be present, any shareholder chosen for that purpose by a majority of the shareholders present at the meeting shall be the chairman thereof.

8. And be it enacted, That at every such meeting the shareholders present thereat shall elect three shareholders of the company to be scrutineers for the purposes aforesaid, and in electing such scrutineers each shareholder shall have one vote only, and shall vote for one scrutineer only; and the decision of such scrutineers, or of any two of them, upon any of the matters hereby intrusted to them, shall be final in all respects.

9. And be it enacted, That for the purpose of receiving the report of the said scrutineers the chairman of such meeting may, if he think fit, on the application of any one of such scrutineers, and he shall, if required by more than one of such scrutineers, adjourn such meeting to some time to be appointed by him, not less than one clear day nor more than seven clear days from the day of holding such meeting.

10. And be it enacted, That a certificate under the hand of the chairman of the meeting, stating that such of the meeting as aforesaid has been duly held, and such consent given as aforesaid in cases where the same is given, shall be deposited in the office of the said commissioners of railways within one week after the day of holding such meeting.

11. Provided always, and be it enacted, That if it appear to any of the shareholders of any such company who shall have signed any such requisition, or been present at any such meeting as aforesaid at which the proposal to apply to the said commissioners to authorize the abandonment of the whole or part of a railway shall have been negatived or alleged to be negatived, either that such meeting was not duly called, or that the sense thereof was not duly taken according to the true intent and meaning of this act, and that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application would have been given, it shall be lawful for any such shareholders not being less in number than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, and which shareholders shall have paid all the calls then due on the

shares held by them, to apply to the said commissioners, setting forth in writing the grounds on which they complain of the decision alleged to have been come to at such meeting as aforesaid, and praying that a further meeting may be called, and if it appear to the said commissioners (after hearing the parties complained of, if they desire to be heard) that there is good reason to believe that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application to the said commissioners would have been given, the said commissioners shall certify their judgment to that effect, and shall direct a further meeting to be called by the directors of such company at the time and place to be appointed by the said commissioners, and the said directors shall call such meeting accordingly, or in default thereof it shall be lawful for the shareholders who complained to the said commissioners of the proceedings of the former meeting to call such meeting, and all the provisions of this act shall apply to any further meeting so directed to be called in like manner as to any original meeting hereinbefore authorized or required to be called.

If meeting determine that application shall be made, directors not to proceed meanwhile.

12. And be it enacted, That if at any such meeting any railway company shall determine, as hereinbefore mentioned, that such application as aforesaid shall be made, or if the said commissioners shall certify as aforesaid their judgment, that if such meeting had been duly called and the sense thereof duly taken the consent of such meeting to the proposed application to the said commissioners would have been given, then, as from the date of the resolution so come to at such meeting, or the date of the said certificate, as the case may be, the directors of such company shall not have power to proceed any further with the making of the railway, or the part thereof so proposed to be abandoned, until the decision of the commissioners of railways with respect to such application be made, and then only in accordance with such decision.

Commissioners of railways to direct advertisements of application.

13. And be it enacted, That if it appear to the said commissioners that there are sufficient grounds for entertaining such application, the said commissioners shall require and direct the company making the same to give notice of such application having been made, by advertisement inserted, in a form to be approved of by the said commissioners, once in the London, Edinburgh, or Dublin Gazette, according as the railway or part of the railway proposed to be abandoned is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part proposed to be abandoned of such rail-

way is situated, and affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any part of such railway where the whole is proposed to be abandoned, or in which any part proposed to be abandoned, is situate, and in Ireland such notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such church or chapel on some public or conspicuous place of such parish; and every such notice shall set forth within what time and in what manner any person who thinks himself aggrieved by any such proposed abandonment, and who desires to object thereto, may bring such objection before the commissioners.

14. And be it enacted, That, for the purpose of ascertaining the state and condition of the company making any such application, and of inquiring into the expediency of the proposed abandonment of railway, and of determining the terms and conditions on which the same may be authorized by them, it shall be lawful for the commissioners of railways, by themselves or by any officer appointed and specially empowered by them for that purpose, to inspect the books of accounts, minutes of proceedings, or any other books, papers, or documents in the possession or control of such company, and also, if they see fit so to do, to send, at the expense of such railway company, or at the expense of any person who applies to them for that purpose, an officer to be appointed by them to inspect the railway or proposed railway or work so proposed to be abandoned, and to collect evidence on the spot relative to such abandonment; and if any such company, or any of their officers or servants, shall refuse such inspection by the said commissioners, or any officer appointed and specially empowered by them for that purpose, or refuse or wilfully neglect to produce to the said commissioners or any such officer, on demand, any books, papers, or documents in the possession or control of such company, every such company shall for every such refusal or neglect forfeit to her Majesty the sum of twenty pounds, and a further sum of five pounds for every day during which such refusal or wilful neglect shall be continued.

Commissioners to have power to inspect the company's books and other documents, and to send an officer for local inspection.

15. And be it enacted, That upon proof to the satisfaction of the said commissioners that such notice has been duly given, and after the expiration of the time therein appointed for bringing objections before the said commissioners, and after considering all the objections, if any, brought before them, the said commissioners may, if they think fit, and upon such terms and conditions as they think fit, by warrant under their seal, and signed by two

Commissioners may by warrant authorize the abandonment of railway

or more of the said commissioners, authorize the abandonment of the railway or portion of railway described in such warrant.

In considering objections of shareholders to partial abandonment, Commissioners to have regard to local circumstances.

Power to reduce or cancel the shares of the objectors in certain cases.

Abandonment of railway to be advertised, and demands on the company for compensation to be sent in.

16. Provided always, and be it enacted, That in considering the objections which may be made by any of the shareholders of any railway company to the proposed abandonment of a part only of the railway of such company, and in determining the terms and conditions on which the said commissioners may think fit to authorize any such partial abandonment, the said commissioners shall have regard to the local situation of the lands and residences of the shareholders so objecting with reference to the portion of railway proposed to be abandoned; and in the case of any such shareholders being original subscribers to the undertaking, and not being solicitors, agents, or engineers employed in promoting the same, and whose places of residence or lands are adjoining or near the line of the portion of railway so proposed to be abandoned, it shall be lawful for the said commissioners, if they think fit so to do, in any direction which (under the provision hereinafter contained) they may give for reducing the capital of the company authorized to construct such railway, to provide, at the request of any such last-mentioned shareholders, that the nominal amount of the shares held by them in such company may be reduced to the amount then already paid up by them respectively, or to such other extent as the said commissioners may think fit to order in that behalf, or the said commissioners may, at the like request, direct any such shares to be cancelled, and a part of the moneys that may have been paid up in respect of such shares, bearing such proportion to the whole as the said commissioners having regard to all the circumstances of the case shall think fit to determine, to be repaid to such shareholders.

17. And be it enacted, That within one month after the day on which any such warrant as aforesaid is granted by the said commissioners the railway company to which the same applies shall cause notice thereof to be inserted in the London, Edinburgh, or Dublin Gazette, according as the railway or part of railway mentioned therein is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part of such abandoned railway is situate, and to be affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any such part of such railway is situate, and in Ireland such notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such church or chapel, on some public or conspicuous place of such parish; and every

such notice shall require all persons having any claims or demands upon the said company for compensation or otherwise, by reason of the abandonment of railway authorized by such warrant, to transmit the statement of such claims or demands to the secretary of such company, at the office or usual place of business of the same company, within four months from the date of such warrant.

18. And be it enacted, That, upon proof to the satisfaction of the said commissioners that notice of such warrant has been duly published in manner hereinbefore required, the said commissioners shall certify the same accordingly; and such certificate shall be received in all courts of justice or elsewhere as evidence that such notice was duly published as aforesaid.

Commissioners to certify publication of notice of warrant.

19. And be it enacted, That after the granting of any such warrant, and the publication of such notice thereof as aforesaid, the company shall (subject to the provisions hereinafter contained) be released from all liability to make, maintain, or work the railway mentioned in such warrant, or the part thereof thereby authorized to be abandoned, or to purchase any of the lands required for the making thereof, or to complete the purchase of any such lands for the purchase of which notice may have been given, or any contract entered into, by or on behalf of the company, or to complete any contract for or concerning the making, maintaining, or working of the railway so to be abandoned, or any other contract relating to the railway or part of railway so authorized to be abandoned which by reason of such abandonment cannot be performed: Provided always, that nothing in this act contained shall extend to release the company from any liability to complete the purchase of any land for the purchase of which any contract may have been entered into by or on behalf of the company, and which contract may have been in part performed, or by virtue or in pursuance of which a specified sum or price as the consideration for the purchase of the lands thereby agreed to be sold to or taken by the company shall have been fixed or ascertained previously to the passing of this act, notwithstanding the time for the completion of the purchase named in such contract shall have been subsequently extended by agreement or arrangement with the company.

After the granting of warrant the company to be released from liability to make the railway.

20. Provided always, and be it enacted, That in every case in which before the granting of any such warrant any notice hath been given or contract entered into by or on behalf of the company named therein for purchasing any lands which such company were by the acts relating thereto empowered to purchase for the purpose of constructing the railway or portion of railway so authorized given.

Compensation to be made where contracts have been entered into or notice

to be abandoned, and from which contract such company would be relieved under the provisions hereinbefore contained, or where any contract hath been entered into for or concerning the constructing, maintaining, or working of the railway or part of railway so authorized to be abandoned, or any other contract relating thereto, which by reason of such abandonment cannot be performed, the company shall make to the owners or occupiers of and other parties interested in such lands, or being parties to such contracts as aforesaid, compensation, to be determined by arbitration as hereinafter mentioned, for all injury or damage, if any, sustained by such owners, occupiers, and other parties by reason of such purchase not being completed pursuant to such notice, or by reason of such contract not being performed.

Compensation to adjoining landowners in lieu of accommodation works.

21. And be it enacted, That where any railway or part of a railway so authorized to be abandoned shall have been then made or commenced, such company shall make to the owners and occupiers of the lands adjoining the railway or part of a railway so commenced or made, and authorized to be abandoned, compensation, to be determined by arbitration as hereinafter mentioned, for all such injury or damage, if any, as shall be sustained by such owners or occupiers by reason of the omission to make gates, passages, drains, watercourses, bridges, and such other works, for the accommodation of lands adjoining the railway, as such company would have been required to make if such railway had not been allowed to be abandoned.

Company to make compensation, in lieu of keeping bridges, &c. in repair, except where the road is restored to its former state.

22. And be it enacted, That where the line of any railway so authorized to be abandoned shall have been wholly or partially laid out, and any road shall have been carried across such line of railway by means of a bridge or tunnel over or under such railway, which bridge or tunnel the company to whom such railway belonged would, in case the same had not been abandoned, have been liable to keep in repair, then in every such case, except where such bridge or tunnel shall, with the permission of the said commissioners, be by such company removed, and such road restored to the like or an equally convenient and good state as the same was in before it was interfered with by the makers of such railway, to the satisfaction (in case of difference between such company and the owner or persons having the management of such road) of the commissioners of railways, such company shall pay to the owner of such road, if it be a private road, or to the trustees, surveyors of highways, or other persons having the management of such road, if it be a turnpike or other public road, a sum of money, to be determined

by arbitration as after mentioned, in lieu and discharge of their liability to keep such bridge or tunnel, and also the roadway over the same, in repair.

23. And be it enacted, That every sum so to be paid as last aforesaid to such trustees, surveyors, or other persons as aforesaid shall be by them forthwith paid over to the treasurer of the county where the bridge or tunnel in respect of which such sum was paid is situate, and shall be by him invested in consolidated bank annuities or other public securities, and the dividends or income thereof shall, until Parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the justices in quarter sessions having jurisdiction where such bridge or tunnel is situate shall order.

Compensation to trustees and overseers of public roads, how to be applied.

24. And be it enacted, That every sum so to be paid as last aforesaid in Scotland to such trustees or other persons as aforesaid shall be by them paid into bank, and the interest to arise thereon shall, until Parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the sheriff of the county in which such bridge or tunnel is situate, in case of any difficulty arising, shall direct.

Application of monies paid.

25. And be it enacted, That the amount of the compensation so to be made in the several cases aforesaid shall be determined, in case of difference, by arbitration, in the manner provided by the Railways Clauses Consolidation Act, 1845, or the Railways Clauses Consolidation Act, Scotland, 1845, as the case may require, and for that purpose all the clauses of the said Railways Clauses Consolidation Acts with respect to the settlement of disputes by arbitration shall be deemed to be incorporated with this act: Provided always that no such railway company shall be liable to make any compensation in respect of damage alleged to have been sustained by reason of the abandonment of the railway or part of the railway, or the non-completion of any contract of such company in any of the cases aforesaid, unless the claim for such compensation shall have been made within six months after the publication in the Gazette of the notice of the warrant for such abandonment as hereinbefore provided.

Amount of compensation to be settled by arbitration. Claims for compensation to be made within six months after publication of warrant.

26. Provided also, and be it enacted, That the authority so as aforesaid given for abandoning the making of any such railway or part of a railway shall not prejudice or affect the right of the owner or occupier of any lands to receive from such company compensation for any damage that may have been occasioned by the entry of such company upon such lands, for the purpose of surveying and

Company still liable for damage occasioned by entry on lands.

taking levels, and of probing or boring to ascertain the nature of the soil, or of setting out the line of the railway, pursuant to the provisions for that purpose in the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Act (Scotland), 1845, contained.

Lands purchased by the railway company to be sold within a limited time.

27. And be it enacted, That all the lands acquired by such company for the purposes of the railway or part of railway so authorized to be abandoned shall be sold by such company within the time limited or prescribed for that purpose in the warrant authorizing the abandonment of such railway, and if no time be therein prescribed for that purpose, then within two years from the date of such warrant, in the manner prescribed by the said Lands Clauses Consolidation Acts with respect to the sale of superfluous lands; and for that purpose all the clauses of the said last-mentioned acts with respect to the lands acquired by the promoters of the undertaking under the provisions of their special act, but which are not required for the purposes thereof, shall be deemed to be incorporated with this act: Provided always, that the offer to be made by the railway company pursuant to the said acts to sell such lands to the person entitled to the lands from which the same were severed shall be made at a price or sum not greater than the price or sum at which such lands were purchased by such company.

Where part of a railway is authorized to be abandoned, the Commissioners may require the capital to be reduced.

28. And be it enacted, That when the said commissioners of railways, by any such warrant as aforesaid, authorize the abandonment of a part only of the railway of any railway company, they may, if they think fit, require that the capital authorized to be raised by such company in respect of such railway shall be reduced to such extent and in such manner as the said commissioners think fit, and so that such reduction do not bear a greater proportion to the whole capital so authorized to be raised than the cost of the part of the railway so authorized to be abandoned would have borne to the cost of the whole railway; and they may also, if they think fit, in like manner reduce the amount which such company are authorized to borrow on mortgage or bond, and every such reduction shall be expressed in the said warrant; and in every such case the capital of such company, and their power of borrowing money, shall be reduced and limited in conformity with the directions for that purpose contained in such warrant; and such company shall have all the same powers for enforcing the payment of calls in respect of the shares in the capital when reduced in the manner required by the said commissioners, and for enforcing the forfeiture of any such shares in default of payment of such calls, as such company would have had in respect

of the original capital of such company if this act had not been passed: Provided always, that nothing herein contained shall authorize the said company to reduce or interfere with any amount of capital paid up or called for before the eleventh day of February one thousand eight hundred and fifty, and entitled to any preferential or guaranteed dividend or interest.

29. And be it enacted, That after the granting of any such warrant as aforesaid for the abandonment of the whole railway of any railway company the powers of such company for the construction, maintenance, and management of such railway shall cease, and such company shall continue to exist only for the purpose of winding up their affairs, and they shall accordingly, subject to the provisions herein contained with respect to the sale of lands acquired by such company for the purposes of their railway, proceed with all convenient speed to collect and to convert into money all their property and effects, and shall in the first place pay and satisfy all their debts and liabilities, and after full payment and satisfaction thereof shall distribute the surplus funds among the shareholders of the company in proportion to their shares and interests therein, and for the purposes aforesaid all the powers of such company shall continue in full force and effect; and when and so soon as the same shall have been fully accomplished such company shall be dissolved, and cease to exist.

30. And be it enacted, that, notwithstanding the provision in the Joint Stock Companies Winding-up Amendment Act, 1849, excepting railway companies incorporated by Act of Parliament from the application of the Joint Stock Companies Winding-up Act, 1848, the said two several acts shall nevertheless apply to any railway company incorporated by Act of Parliament in respect of which an order may have been made by the Court of Chancery for winding up the affairs of such company previous to the passing of the said Joint Stock Companies Winding-up Amendment Act, 1849, and the proceedings for winding up the same shall proceed and be carried on under the said Joint Stock Companies Winding-up Act, 1848, and the said Joint Stock Companies Winding-up Amendment Act, 1849, or either of them.

31. And be it enacted, That where any such warrant as aforesaid shall have been granted for the abandonment of the whole railway of any railway company in England or Ireland, any shareholder of such company may present a petition under the Joint Stock Companies Winding-up Act, 1848, or any act for the amendment of such act, for the winding up of the affairs of such company under the

After warrant for abandonment of whole railway the powers of company to cease, except for winding up.

Provisions of winding-up acts to apply to railway companies in certain cases.

When the whole railway abandoned, shareholders may petition

under the winding-up acts. said act, and for that purpose the railway company whose railway is so authorized to be abandoned shall, if the court shall think fit so to order, (notwithstanding anything to the contrary thereof in the said Joint Stock Companies Winding-up Act, or in the Joint Stock Companies Winding-up Amendment Act, 1849,) be deemed to be a company to which the said act applies.

Court of Session may sequestrate any company whose railway is abandoned. 32. And be it enacted, That where any such warrant as aforesaid shall have been granted for the abandonment of the whole railway of any railway company in Scotland, any shareholder of such company may present a petition to the court of session, praying the said court to sequestrate such company, and it shall thereupon be lawful for the said court to issue a deliverance awarding sequestration of such company, and to appoint a factor, who shall take possession of and recover the estate of such company, and realise and manage the same, for the purposes of this act, and for winding up and distributing the same with due regard to the rights and interests of the creditors and shareholders, and of all others concerned therein.

Court of Session to establish rules for adjustment of claims. 33. And be it enacted, That it shall be competent to the said court to establish, by acts of sederunt to be passed by them, all such rules and regulations as may be necessary in relation to the summary statement, discussion, and adjudication of all claims at the instance of creditors, shareholders, and other parties against such company, and by such rules and regulations to apply, as far as may be practicable and expedient, towards the purposes of this act, the provisions of an act passed in the session of Parliament holden in the second and third years of the reign of her present Majesty, intituled "An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland;" and it shall be competent to the said court so also to establish all such other rules and regulations as may be necessary for carrying fully into effect the purposes of this act.

2 & 3 Vict. c. 41. In case of petition for winding up, landowners to be deemed creditors in respect of compensation. 34. And be it enacted, That in the event of the affairs of any such company being wound up under any such petition, the compensation hereinbefore directed to be given to the owners and occupiers of lands and others in respect of the damage sustained by them by reason of such abandonment in the cases hereinbefore mentioned, or by reason of the non-completion of any such contract as aforesaid, or otherwise, shall be deemed a demand claimed from, and when ascertained in the manner provided by this act a debt due from, such company, and the party by whom such compensation is claimed shall be deemed a

"creditor," in England or Ireland, within the provisions of the said Joint Stock Companies Winding-up Act, or, in Scotland, within the provisions of the said recited act of the second and third years of the reign of her present Majesty; and in case any lands purchased by such railway company shall be sold by the official manager under the said act, they shall be sold in the manner and subject to the provisions contained in this act.

35. Provided always, and be it enacted, That this act, or any proceeding thereunder, shall not prejudice or affect any action or suit or other proceeding at law or in equity commenced before the eleventh day of February one thousand eight hundred and fifty, or any action or suit brought in connexion with and during the dependence of and involving the same matter with such action or suit, nor any action, suit, or other proceeding against a company which shall not have obtained a warrant authorizing the abandonment of the railway or part of a railway in respect of which such action, suit, or other proceeding shall be instituted, unless such company shall, within three days after notice for that purpose from the party suing them, give such party notice of their intention to apply for such warrant, and shall obtain the same, and serve notice thereof on such party within three calendar months thereafter, but all such actions and suits and other proceedings shall be proceeded with, and judgments recovered, and rules, orders, and decrees made therein shall be enforced, as if this act had not been passed, save only that the same, after notice given by the company of their intention to abandon as aforesaid, shall be suspended for three calendar months, if the warrant be refused, or be not obtained within that time.

Act not to affect actions or suits commenced before 11th Feb. 1850.

36. Provided always, and be it enacted, That nothing in this act contained shall extend or be construed to extend to authorize the abandonment by any company of any railway or portion of a railway, or other works, which such company has agreed under its corporate seal to make and construct, according to any agreement entered into either with any individual or with any other company, unless such individual or company shall consent in writing to such abandonment.

Certain railways not to be abandoned without consent.

37. And be it enacted, That in each case in which the said commissioners authorize the abandonment of the whole or a portion of a railway, they shall, within ten days after issuing their warrant for that purpose, if Parliament be then sitting, or if not, then as soon thereafter as Parliament meets, lay before both Houses of Parliament a copy of every such warrant, accompanied by such

Commissioners to report to Parliament.

report and observations as shall in the judgment of such commissioners set forth and explain the reasons for their award and warrant in every such case as aforesaid.

Interpreta-
tion of
terms.

88. And be it enacted, That the following words and expressions in this act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number: words importing the masculine gender shall extend to females: the word "person" shall include body corporate: the word "lands" shall include messuages, tenements, and hereditaments: the word "railway" shall include all works, buildings, and undertakings authorized to be constructed or carried on in connexion with the railway or belonging thereto: the word "shares" shall include stock: the word "month" shall mean calendar month.

Short title.

39. And be it enacted, That in citing this act in other acts of Parliament, and in legal and other instruments and proceedings, it shall be sufficient to use the expression "The Abandonment of Railways Act, 1850."

Act may be
amended.

40. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of Parliament.

Schedule referred to by the foregoing Act

(1.)	(1.)	(1.)	(2.)
Name of Railway.	Name of Shareholder.	No. and Amount of Shares or Stock held by him.	Whether assenting or dissenting.

(1.) The secretary will insert these particulars.

(2.) In this column the shareholder will write the word "assenting" or "dissenting," as the case may be, and sign his name thereunder.

14 & 15 VICT. cap. 64.

An Act to repeal the Act for constituting Commissioners of Railways. [7th August, 1851.]

WHEREAS an act was passed in the session holden in the ninth and tenth years of her Majesty (chapter one hundred and five), for constituting commissioners of railways: And whereas it is expedient that the said act should be repealed, and provision be made for the exercise and performance of the powers and duties which since the passing of the said act have been vested in or imposed on the said commissioners: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. From and after the tenth of October one thousand eight hundred and fifty-one the said act shall be repealed, and all powers, rights, authorities, and duties vested in or exercised or performed by the commissioners of railways under any act passed since the passing of the said recited act, or which may be passed during the present session of Parliament, shall be transferred to and vested in and performed by the Lords of the committee of her Majesty's privy council for trade and foreign plantations as if they had been named in such acts instead of the said commissioners; and all proceedings pending before the said commissioners on the said tenth of October, or carried on under their authority, shall be continued and carried on by and before the Lords of the said committee, who shall have, exercise, and perform the same powers, rights, authorities, and duties in respect of all such proceedings as might have been exercised or performed by such commissioners in case this act had not been passed.

2. It shall be lawful for the Lords of the said committee, with the approval of the commissioners of her Majesty's treasury, to continue, for the transaction of the business transferred to the Lords of the said committee under this act, all or any of the officers and servants appointed by the said commissioners of railways, and from time to time, with such approval, to remove such officers and servants, or any of them.

3. Where by any act relating to railways or to any railway the commissioners of railways or the Lords of the said committee are empowered or required to make or issue any appointment, authority, determination, order, requisition, regulation, certificate, or notice, or to do any other act, the Lords of the said committee may, after the said tenth of October, signify such appointment, authority, determination, order, requisition, regulation, certificate,

Preamble.

9 & 10 Vict
c. 105.Recited
Act repeal-
ed, and
powers, &c.
of commis-
sioners
transferred
to Board of
Trade.Power to
continue
officers.Appoint-
ments,
orders, &c.
of the
Board of
Trade how
to be sig-
nified.

notice, or other act by a written or printed document, signed by one of the joint secretaries of the Lords of the said committee, or by some assistant secretary, or other officer appointed by them to sign documents relating to railways; and every appointment, authority, determination, order, requisition, regulation, certificate, notice, or other act signified by a written or printed document purporting to be so signed as aforesaid, shall be deemed to have been duly made, issued, or done by the Lords of the said committee; and every such document shall be received in evidence in all courts and before all justices and others, without proof of the authority or signature of such secretary or other officer, or other proof whatsoever, until it be shown that such document was not signed by the authority of the Lords of the said committee.

RAILWAYS (IRELAND), 1851.

14 & 15 Vict. cap. 70. An Act to alter and amend certain provisions of the Lands Clauses Consolidation Act, 1845, so far as relates to Ireland.
[7th August, 1851.]

WHEREAS, on account of circumstances connected with **Preamble.** the tenure of land in Ireland, the provisions of the Lands Clauses Consolidation Act, 1845, are found to be unsuited to the existing condition of that country, and it is expedient that some provision should be made for ascertaining the purchase money or compensation to be paid by railway companies in Ireland for the lands required for their undertakings, and for determining differences with respect to the works to be made and maintained by such companies for the accommodation of the owners and occupiers of lands adjoining such railways: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

1. In citing this act in other Acts of Parliament, legal instruments, proceedings at law or in equity, and all other instruments and proceedings whatsoever, it shall be sufficient to use the expression "The Railways Act (Ireland), 1851."

See also 23 & 24 Vict. c. 97, and 27 & 28 Vict. c. 71.

2. This act shall apply to every railway in Ireland authorized to be made by any act passed in this session of Parliament, or which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such railway, and also to every railway or portion of a railway in Ireland by any act heretofore passed authorized to be made in relation to which the compulsory powers for taking lands are still in force, and this act shall be incorporated with and form part of the acts authorizing the said undertakings: Provided always, that this act shall not apply to the railways authorized to be made by "The Waterford and Limerick Railway Amendment Act, 1850," "The Dublin and Drogheda Railway Act, 1850," "The Dundalk and Enniskillen Railway Act, 1850," and "The Midland Great Western Railway of Ireland (Deviation and Amendment) Act, 1850," "The Waterford and Limerick Railway Deviation Act, 1851," and "The Killarney Junction Railway Act, 1851," "The Longford Line and Liffy Branch, 13 & 14 Vict.,"

Act to apply to railways in Ireland, with certain exceptions.

14 & 15 VICT.
CAP. 70.

Certain
provisions
of 8 VICT. c.
18, not to
apply.

Company to
deliver maps,
schedules,
and esti-
mates at the
office of com-
missioners of
public
works, and
deposit
copies with
clerks of
the peace
and clerks of
unions.

or to which the provisions of such acts respectively are applicable, and shall not in anywise interfere with or affect the provisions of such acts.

3. The clauses of "The Lands Clauses Consolidation Act, 1845," with respect to the purchase and taking of lands otherwise than by agreement, except sections sixteen and seventeen of the said act, shall not be applicable or in force with respect to any railway or portion of a railway in Ireland to which this act applies.

4. When and so often as any company authorized to make a railway to which this act applies shall require to purchase or take any lands which they are by the special act authorized to purchase or take, the company shall cause to be made out, and to be signed by their engineer and secretary, maps or plans and schedules of the lands so required (and for the purchase of which lands, or of all the several interests in which lands, the company shall not have contracted), and also of the works which the company propose to make and maintain for the accommodation of lands adjoining the railway (and for compensation in lieu of which the company shall not have contracted), together with the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands respectively, so far as the same can be reasonably ascertained, with estimates of the gross annual value and the value in fee of such lands so required to be purchased or taken as aforesaid, and for the purchase of which, or of all the several interests in which, the company shall not have contracted, and the separate and distinct value of each such interest which the company shall not have contracted to purchase, so far as the same can be reasonably ascertained (taking into consideration damage by severance, and any other matters by the Lands Clauses Consolidation Act, 1845, required to be considered, if necessary); and every such map or plan shall be upon a scale of not less than one inch to every two hundred feet; and all lands, buildings, yards and court-yards, and lands within the curtilage of any building, and ground cultivated as a garden, shall be marked thereon with distinct numbers corresponding with the numbers marked upon the Parliamentary plans of the railway, and shall have put thereon a distinct valuation to each number, and all bridges, roads, and other works proposed to be made for the use and accommodation of the owners, lessees, and occupiers of the lands adjoining the railway shall also be marked on the said maps or plans; and the company shall deposit such maps or plans, schedules and estimates, at the office of the commissioners of public works in Ireland, and a copy of such maps or

plans, schedules and estimates, or so much thereof as relates to every county in or through which the railway is proposed to be made, with the clerk of the peace of each such county, and a copy of so much of the said maps or plans, schedules and estimates, as relates to each electoral division in which any such lands shall be situate, with the clerk of the poor law union in which every such electoral division is situate.

14 & 15 VICT.
CAP. 70.

5. After such deposit at the office of the said commissioners as aforesaid, it shall be lawful for the said commissioners, upon the application of the company, to appoint an arbitrator between the company and the persons interested in the lands to which such maps or plans, schedules and estimates relate, and such arbitrator shall, in relation to the lands required and the works to be made and maintained by the company, as herein mentioned, be the arbitrator under this act; and if any such arbitrator die, or refuse, decline, or become incapable to act, the said commissioners may appoint an arbitrator in his place who shall have the same powers and authorities as the arbitrator first appointed.

Commissioners to appoint an arbitrator.

6. The arbitrator may call for the production of any documents in the possession or power of the company, or of any party making any claim under the provisions of this act, which such arbitrator may think necessary for determining any question or matter to be determined by him under this act, and may examine any such party and his witnesses, and the witnesses for the company, on oath, and administer the oaths necessary for that purpose.

Arbitrator may call for documents.

7. Before any arbitrator shall enter upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,

Arbitrator to make and subscribe declaration.

"I, A.B., do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act [naming this act]."

"A.B."

"Made and subscribed in the presence of ."
And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto, he shall be guilty of a misdemeanor.

8. Upon the first appointment of an arbitrator as aforesaid, the said commissioners shall deliver to such arbitrator the maps or plans, schedules and estimates, deposited at their office as hereinbefore required; and the company shall forthwith after such appointment publish notice of such appointment, and of such deposits as herein-

Maps, &c. to be delivered to arbitrator.

Notice of

14 & 15 VICT.
CAP. 70.

appointment
of arbitrator,
&c. to be
published.

"Twenty-
one," see 23
& 24 VICT. c.
97, s. 1.

Arbitrator
to adjudicate
upon com-
pensation to
be paid for
lands and
upon accom-
modation
works.

before directed with such clerk of the peace and clerks of poor law unions as aforesaid, once in the Dublin Gazette, and once in each of three successive weeks in some one and the same newspaper circulated in the county in which the lands are situate, stating the times and places of such deposits, and requiring all persons claiming to have any right to or interest in the lands required for the purposes of the railway, and specified in such maps or plans, or to have compensation for any injury to any lands injuriously affected by the execution of the works of the company, or to have any works made by the company for the accommodation of lands adjoining the railway, to deliver to the arbitrator, on or before a day fixed by the arbitrator and named in such notice (and which day shall not be earlier than *thirty-one* days from the date of the insertion of the last of such newspaper notices), a short statement in writing of the nature of such claim; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the company shall publish notice of such appointment in the Dublin Gazette.

9. The arbitrator shall, after the expiration of the period within which such claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the value of the lands required for the purposes of the railway, and specified in such maps or plans, and the several interests in such lands, in respect of which no agreement shall have been come to between the company and the persons entitled thereto, and the purchase money to be paid for such lands, and the compensation to be paid for injury to any lands injuriously affected by the execution of the works of the company, and to inquire and determine what works should be made and maintained by the company for the accommodation of lands adjoining the railway; and the arbitrator shall, after due inquiry and examination, frame a draft award setting forth the price or compensation to be paid by the company in respect of the several interests in the lands so required and specified or injuriously affected, and the works to be made and maintained by the company for the accommodation of lands adjoining the railway; and where any inquiry relates not only to the value of the lands to be purchased, but also to compensation claimed for injury done or to be done to any lands held therewith, the arbitrator shall award separate and distinct sums to be paid for the purchase of such lands, or of any interest

therein to which the inquiry may relate, and for the damage (if any) to be sustained by reason of the severing of the lands taken from the other lands, or otherwise injuriously affecting such other lands by the exercise of the powers of the company; and such draft award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions shall be deposited as hereinbefore directed concerning the said maps or plans, schedules and estimates, and copies thereof, or of so much thereof as aforesaid; and the arbitrator shall cause notice of such award to be given to all persons entitled to payment or compensation under the same, or who shall have been heard before such arbitrator as claimants for compensation, and also shall cause notice to be published as hereinbefore directed concerning notice of the deposit of copies of the said maps or plans, schedules and estimates, or so much thereof as aforesaid, of the deposit of copies of such draft award, or of so much thereof as aforesaid, and shall in such notices appoint a time and place, or times and places, for holding a meeting or meetings to hear objections against such draft award (the first such meeting to be not earlier than *twenty-one* days after the last day of publication of the said notice), and shall hold such meeting or meetings accordingly, and thereat hear and determine any objections which may then and there be made to such draft award by any person interested therein, or adjourn the further hearing thereof, if the arbitrator see fit, to a future meeting, and may take any measures which he may deem proper for ascertaining the value of any such lands or interests as aforesaid, or the justice or propriety of any other matter of such draft award, and may from time to time, if he see occasion, appoint and hold further meetings for hearing and determining objections to such draft award, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed; and when the arbitrator has heard and determined all such objections, and made such inquiries as he may think necessary in relation thereto, and made such alterations (if any) as he may deem proper in the draft award, he shall make his award under his hand and seal accordingly; and every such award shall be binding and conclusive, subject to the provisions concerning traverse hereinafter contained, upon all persons whomsoever; and no such award shall be set aside for irregularity in matter of form; and every such award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions, shall be deposited as hereinbefore directed with respect to the said maps or plans, schedules and estimates,

14 & 15 Vict.
CAP 70.

"Fourteen."
see 23 & 24
Vict. c. 97, s.
1.

14 & 15 VICT.
CAP. 70.

and copies thereof, or of so much thereof as aforesaid; and the company shall thereupon publish notice, as hereinbefore directed concerning notice of the deposit of copies of such maps or plans, schedules and estimates, or of so much thereof as aforesaid, of the deposit of copies of such award, or of so much thereof as aforesaid, and requiring all persons claiming to have any right to or interest in the lands, the price or compensation to be paid in respect of which is ascertained by such award, to deliver to the company, on or before a day to be named in such notice (such day not being earlier than thirty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title on which the same is founded; and such statement and abstract shall be paid for by the company.

Separate awards may be made as to lands in several places.

10. Provided always, That the arbitrator may make several awards, so as to include in a separate award the lands in each electoral division, or such portion of the lands in relation to which he is arbitrator as, having reference to the deposits to be made under this act, the meetings to be holden, and the inquiries to be made in relation to such lands, and the convenience of the parties interested in the matter of the arbitration, he may think fit.

Clerks of the peace, &c. to take charge of documents.

11. Every clerk of the peace and clerk of any union is hereby required to retain the documents to be deposited with him under this act in his custody, and to permit all persons interested to inspect the same, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided by an act of the session holden in the seventh year of King William the Fourth and the first year of her Majesty, chapter eighty-three.

Expenses of arbitrator and commissioners to be borne by the company.

12. The salary or remuneration, travelling and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which shall be incurred by the said commissioners of public works in carrying the provisions of this act into execution, shall be paid by the company; and the amount of such costs, charges, and expenses shall from time to time be certified by the said commissioners, after first hearing any objections that may be made to the reasonableness of any such costs, charges, and expenses by or on behalf of the company; and it shall be lawful for the said commissioners from time to time to require the company to deposit in the Bank of Ireland, to the credit of the said commissioners, any sum or sums of money, or to give such other security for the payment of any such costs, charges, and expenses as to the said commissioners shall seem fit; and every certificate of the said

commissioners, certifying the amount of such costs, charges, and expenses, shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the company to the crown, and shall be recoverable accordingly.

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13. It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the company: and if within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the company in respect of such claim before the commencement of the arbitration.

Costs of parties.

14. Within thirty days from the delivery of such statement and abstract as aforesaid to the company, the company shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate, or interest claimed by him, deliver to such person on demand, a certificate under the company's seal, stating the amount of the price or compensation to which he is entitled under the said award; and where more lands than are included in one number shall be claimed by the same person, such lands, or the interests therein, may be included in one certificate, if the company think fit, such certificates to be prepared by and at the costs of the company; and where any agreement has been entered into in respect to the value of the interest of any person in any lands, or his right to compensation, the company may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

Certificates of amount of compensation to be delivered by the company.

15. The company shall, on demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases hereinafter mentioned, the amount of monies specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns; and if the company wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the company in the Court of Queen's Bench in Ireland for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by

Amount mentioned in certificates to be paid to parties, on demand, &c.

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When
amount is
paid, com-
pany may
take posses-
sion.

Receipts
duly
stamped to
operate as a
conveyance.

Payment of
monies
where
parties
deemed not
entitled, or
are under
disability,
&c.

Where no
claim made

warrant of attorney from the company, authorized to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all monies payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law and in equity be taken as personal estate as from the time of the company entering on any such lands as aforesaid.

16. When and so soon as the company have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided, in the cases hereinafter mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns, it shall be lawful for the company, upon obtaining such receipt as hereinafter mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

17. In every case in which any monies are paid by any company under the provisions of this act, for such price or compensation as aforesaid, the party receiving such monies shall give to the company a receipt for the same, and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such monies are paid, so as such receipt shall have an *ad valorem* stamp of the same amount impressed thereon in respect of the purchase monies mentioned in such certificate (but exclusive of the amount of compensation for damage by severance or other injury) as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the costs of the company.

18. If it appear to the company from any such statement and abstract as aforesaid, or otherwise, that the party making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the company, then and in every such case the amount to be paid by the company in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of "The Lands Clauses Consolidation Act, 1845," "with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title."

19. Where any person claiming any right or interest in any lands shall refuse to produce his title to the same, or

where the company have taken possession of any lands under the provisions of this act in respect of the price or compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the company taking possession, or if any party to whom any such certificate has been given or tendered refuse to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the company in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of Ireland, in the name and with the privity of the Accountant General of the Court of Chancery in Ireland, in manner provided by the last-mentioned clauses of "The Lands Clauses Consolidation Act, 1845," and the amount so paid into the said bank shall be accordingly dealt with as by the said act provided; and no monies paid into the bank under this act shall be liable to Usher's poundage.

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CAP. 70.

or parties
refuse to
accept sum
certified,
money to be
paid into the
bank.

20. Nothing herein contained shall prevent the company from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement hereinbefore mentioned, if they think fit, so as the same be obtained at the costs of the company.

Further
evidence of
title.

21. If from any reason whatever the company shall not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the company as aforesaid, then the right to have a certificate according to the provisions of this act may, at the costs and charges of the company, be enforced by any party or parties, by application to the High Court of Chancery in Ireland in a summary way by petition, and all other rights and interests of any party or parties arising under the provisions of this act may be in like manner enforced against the company by such application as aforesaid.

Delivery of
certificate
may be en-
forced by
Court of
Chancery.

22. *Provided always, That where the company are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions hereinbefore contained, it shall be lawful for the company, at any time after the arbitrator shall have framed his draft award, upon depositing in the Bank of Ireland, as herein directed, such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorized to be purchased or taken by the company, and mentioned in such draft award, to enter upon and use such lands for the purposes of the railway and works of the company; and the arbitrator shall, upon the request of the company, at*

After de-
posit of
draft award
company
may, upon
deposit of
such
amount as
arbitrator
may think
fit, enter
upon lands.

Repealed by
23 & 24 Vict.
c. 97, s. 2.

14 & 15 VICT.
CAP. 70.

any time after he shall have framed such draft award, certify under his hand the sum which in his opinion should be so deposited by the company in respect of any lands mentioned in such draft award before they enter upon and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such draft award as the sum or sums to be paid by the company in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other proceedings under this act, shall be had, and payments made, as if such entry and deposit had not been made; provided that the company shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the purchase and compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of this act, such purchase money or compensation is required to be paid into the said bank, then until the same, with such interest, is paid into such bank accordingly; and where under this provision interest is payable on any purchase or compensation money the certificate to be delivered by the company in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

Mode of
deposit.

Repealed by
23 & 24 Vict.
c. 97, s. 8.

23. The money to be deposited as aforesaid in respect of any lands shall be paid into the Bank of Ireland in the name and with the privy of the Accountant-General of the Court of Chancery in Ireland, to be placed to his account there to the credit of the company (describing the company by its proper name), in the matter of the Railways Act (Ireland), 1851, and of the lands in respect of which the same is paid, subject to the control and disposition of the said court; and upon such deposit the cashier of the said bank shall give to the company, or to the party paying in such money by their direction, a receipt for the same.

Deposit to
remain as a
security, and
to be applied
under the
direction of
the court.

24. The money so deposited as last aforesaid shall remain in the bank by way of security to the parties interested in the lands which shall so have been entered upon, for the payment of the money to become payable by the company in respect thereof under the award of the arbitrator; and the money so deposited may, on the application by petition of the company, be ordered to be

invested in bank annuities or government securities, and accumulated; and upon such payment as aforesaid by the company it shall be lawful for the Court of Chancery in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the company, or, in default of such payment as aforesaid by the company, it shall be lawful for the said court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

25. If at any time the company be unable, by reason of the closing of the office of the Accountant-General of the said Court of Chancery, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the bank by way of security as aforesaid, it shall be lawful for the company to pay into the bank, to such credit as aforesaid (subject nevertheless to being dealt with as herein provided), such sum of money as the company shall by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the bank in that behalf, request, and upon any such payment being made the cashier of the bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said Accountant-General's office, the solicitor for the company shall there bespeak the direction for the payment of such sum in to the name of the Accountant-General, and upon production of such direction at the bank of Ireland the money so previously paid in shall be placed to the credit of the said Accountant-General accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the report office.

26. Where the party named in any certificate issued under the provisions hereinbefore contained of the amount of the price or compensation ascertained by any award under this act (or any party claiming under the party so named) shall be dissatisfied with the amount in such certificate certified to be payable, and where any party claiming any interest in any monies so paid into court as aforesaid shall be dissatisfied with the amount of the price or compensation in respect of which such monies shall be so paid into court, and where any party interested in land adjoining any railway shall be dissatisfied with any award under this act so far as respects any works for the accommodation of such lands thereby awarded to be made and maintained by the company, or which such party may claim to have so made and maintained, it shall be lawful

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CAP. 70.

Repealed by
23 & 24 Vict.
c. 97, s. 4.

Company
may deposit
money by
way of
security
while the
office of the
accountant
general is
closed.

Parties dis-
satisfied
with award,
may enter
a traverse
at assizes.

14 & 15 Vict.
CAP. 70.

for such party, at the assizes for the county in which the lands are situate, or, where the lands are situate in the county of Dublin or county of the city of Dublin, in the term next following the giving of such certificate, or the payment of such money into court, or (if the claim be only in respect of accommodation works) the making of the award, or where such assizes are holden or such term begins within less than twenty-one days after the giving of such certificate, or the payment of such money, or the making of the award, then at the next subsequent assizes, or in the next subsequent term (as the case may be), upon giving ten days notice in writing previously to such assizes or term respectively to the secretary of the company, of the amount or the accommodation works intended to be claimed, to have a traverse for damages entered in the crown book in respect of such claim, and thereupon such traverse shall be tried in like manner, and like proceedings shall be had, and subject to like provisions, as far as the same can be applied, as in the case of traverses entered for damages under the acts for consolidating and amending the laws relating to the presentment of public monies by grand juries in Ireland: Provided always, that the sum to be awarded or allowed as the costs, charges, and expenses of the trial of every such traverse for damages shall in no case exceed the sum of twenty pounds, and further that no party shall have any other remedy for the purpose of impeaching the amount of any price or compensation ascertained by any such award as aforesaid, or the sufficiency of the accommodation works awarded thereby, other than by means of such traverse as aforesaid, anything in any act to the contrary notwithstanding: Provided also, that the jury which shall try such traverse shall be sworn a true verdict to give, whether any and what damages will be sustained by the traverser, regard being had to the value of the lands of such traverser required, and to the injury to any lands of such traverser injuriously affected by the works of the company, or (as the case may be) as to what accommodation works ought to be made and maintained by the company for the accommodation of the lands of the traverser, or to the like effect respectively, as the case may be.

Verdict on
traverse to
have effect of
judgment.

27. The entry of the verdict of the jury in case of each traverse in the crown book shall be a final decision, and binding upon all parties interested, and shall have the effect of a judgment at law obtained in the Court of Queen's Bench in Ireland against the company, and may be enforced by like remedies against the company as in the case of a judgment at law, by all parties interested therein; and in each case where a certificate shall have been

delivered, such damages shall be taken and recovered in lieu of the monies expressed to be payable by the certificate, and which shall, on payment of the damages, and any costs payable by the company, be delivered up to the said company, and such receipt for such damages shall be given as is hereinbefore provided in cases of payment of monies on such certificates as aforesaid; and where such damages shall be given in respect of any land, the amount of the price or compensation in respect of which, as ascertained by an award under this act, shall have been paid into court, then if the amount of such damages shall be less than the amount paid into court, the company shall, on a summary application by petition, be entitled to receive the difference between the amount of such damages and the amount of the sum paid into court, but if the amount of such damages shall exceed the amount of the monies paid into court, then the difference between the amount paid in and the damages shall, at the costs of the company, be paid into court; and the payment of such difference into court, and the payment of any costs payable by the company in respect of such traverse, shall be a good discharge to the company on any such verdict in the nature of a judgment as aforesaid.

14 & 15 VICT
CAP. 70.

28. The provisions of this act shall extend to the purchase by the company of lands for extraordinary purposes. Additional lands.

29. All the provisions of "The Lands Clauses Consolidation Act, 1845," shall, subject to the provisions herein contained, extend to and be taken as part of this act, except so far as the same are inconsistent therewith. 8 VICT. c. 18, incorporated.

30. In the construction of this act the words "the company" shall mean the company constituted by the special act. The Company.

31. This act shall extend to Ireland only. Ireland.

32. *This act shall continue in force for five years next after the passing thereof, and thence to the end of the then next session of Parliament.*

Made perpetual by 23 & 24 VICT. c. 24, s. 2.

16 & 17 VICT. cap. 69.

An Act to make better Provision concerning the Entry and Service of Seamen, and otherwise to amend the Laws concerning Her Majesty's Navy (so far as relates to Railways).

[15th August, 1853.]

Railway companies to convey naval forces upon the same terms as military and police. 18. WHENEVER it shall be necessary to move any of the officers or men in her majesty's navy or belonging to any naval coast volunteers, or any other officers or men under the command or government of the admiralty, every railway company shall, upon the production of a route or order for the conveyance of such officers or men, signed by any officer or person authorized by the lord high admiral or commissioners for executing the office of lord high admiral in that behalf, be bound to provide conveyance for such officers or men and their personal luggage, and also any public baggage, stores, arms, ammunition, and other necessities and things, by the railway of such company, at the usual hours of starting, in like manner and at the like fares and rates of charge, and upon the like conditions, as under the act of the session holden in the seventh and eighth years of her majesty, chapter eighty-five, or any other act applicable to such company, such company would be bound to provide such conveyance for the officers and men of her majesty's forces of the line, ordnance corps, marines, militia, and police force, and their personal luggage, and any public baggage, stores, arms, ammunition, and other necessities and things of the said forces.

7 & 8 Vict.
c. 85.

17 & 18 VICT. cap. 31.

*An Act for the better Regulation of the Traffic on
Railways and Canals.* [10th July, 1854.]

WHEREAS it is expedient to make better provision for Preamble.
regulating the traffic on railways and canals: Be it enacted
by the Queen's most excellent Majesty, by and with the
advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and
by the authority of the same, as follows: Interpretation of words.

1. In the construction of this act "the Board of Trade" Board of
shall mean the Lords of the committee of her Majesty's Trade.
privy council for trade and foreign plantations: The word
"traffic" shall include not only passengers, and their Traffic.
luggage, and goods, animals, and other things conveyed
by any railway company or canal company, or railway
and canal company, but also carriages, waggons, trucks,
boats, and vehicles of every description adapted for
running or passing on the railway or canal of any such
company: The word "railway" shall include every station Railway.
of or belonging to such railway used for the purposes of
public traffic: and, the word "canal" shall include any Canal.
navigation whereon tolls are levied by authority of Par-
liament, and also the wharves and landing places of and
belonging to such canal or navigation, and used for the
purposes of public traffic: The expression "railway
company," "canal company," or "railway and canal com- Company.
pany," shall include any person being the owner or lessee
of or any contractor working any railway or canal or
navigation constructed or carried on under the powers of
any act of Parliament: A station, terminus, or wharf Stations.
shall be deemed to be near another station, terminus, or
wharf when the distance between such stations, termini,
or wharves shall not exceed one mile, such stations not
being situate within five miles from St. Paul's Church, in
London.

2. Every railway company, canal company, and railway
and canal company, shall, according to their respective
powers, afford all reasonable facilities for the receiving
and forwarding and delivering of traffic upon and from the
several railways and canals belonging to or worked by
such companies respectively, and for the return of car-
riages, trucks, boats, and other vehicles, and no such
company shall make or give any undue or unreasonable
Railway companies to make arrangements for receiving and forwarding traffic with-

out unreason-
able delay, and
without
partiality.

preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, nor shall any such company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway or canal or railway and canal communication, or which have the terminus, station, or wharf of the one near the terminus, station, or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding all the traffic arriving by one of such railways or canals by the other, without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may, by means of the railways and canals of the several companies, be at all times afforded to the public in that behalf.

Parties complain-
ing that
reasonable
facilities for
forwarding
traffic, &c.,
are with-
held, may
apply by
motion or
summons
to the super-
ior courts.

Inquiries
by engi-
neers or
barristers.

3. It shall be lawful for any company or person complaining against any such companies or company of anything done, or of any omission made in violation or contravention of this act, to apply in a summary way, by motion or summons, in England, to her Majesty's Court of Common Pleas at Westminster, or in Ireland to any of her Majesty's Superior Courts in Dublin, or in Scotland to the Court of Session in Scotland, as the case may be, or to any judge of any such court; and, upon the certificate to her Majesty's Attorney General in England or Ireland, or her Majesty's Lord Advocate in Scotland, of the Board of Trade alleging any such violation or contravention of this act by any such companies or company, it shall also be lawful for the said Attorney General or Lord Advocate to apply in like manner to any such court or judge, and in either of such cases it shall be lawful for such court or judge to hear and determine the matter of such complaint; and for that purpose, if such court or judge shall think fit, to direct and prosecute, in such mode and by such engineers, barristers, or other persons as they shall think proper, all such inquiries as may be deemed necessary to enable such court or judge to form a just judgment on the matter of such complaint; and if it be made to appear to such court or judge on such hearing, or on the report of any such person, that anything has been done or omission made, in violation or contravention of this act, by such company or companies, it

shall be lawful for such court or judge to issue a writ of in- Writ of
junction or interdict, restraining such company or companies injunction
from further continuing such violation or contravention of may be
this act, and enjoining obedience to the same; and in case of issued.
disobedience of any such writ of injunction or interdict it
shall be lawful for such court or judge to order that a
writ or writs of attachment, or any other process of such
court incident or applicable to writs of injunction or in-
terdict, shall issue against any one or more of the directors
of any company, or against any owner, lessee, contractor,
or other person failing to obey such writ of injunction or
interdict; and such court or judge may also, if they or Penalty.
he shall think fit, make an order directing the payment
by any one or more of such companies of such sum of
money as such court or judge shall determine, not ex-
ceeding for each company the sum of two hundred pounds
for every day, after a day to be named in the order, that
such company or companies shall fail to obey such injunc-
tion or interdict; and such monies shall be payable as the
court or judge may direct, either to the party complaining,
or into court to abide the ultimate decision of the court,
or to her Majesty, and payment thereof may, without
prejudice to any other mode of recovering the same, be
enforced by attachment or order in the nature of a writ
of execution, in like manner as if the same had been
recovered by decree or judgment in any Superior Court
at Westminster or Dublin, in England or Ireland, and in
Scotland by such diligence as is competent on an extracted
decree of the Court of Session; and in any such proceed- Costa.
ing as aforesaid, such court or judge may order and
determine that all or any costs thereof or thereon incurred
shall and may be paid by or to the one party or the other,
as such court or judge shall think fit; and it shall be
lawful for any such engineer, barrister, or other person,
if directed so to do by such court or judge, to receive
evidence on oath relating to the matter of any such
inquiry, and to administer such oath.

4. It shall be lawful for the said Court of Common Pleas Judges may
at Westminster, or any three of the judges thereof, of make such
whom the Chief Justice shall be one, and it shall be regulations
lawful for the said courts in Dublin, or any nine of the as may be
Judges thereof, of whom the Lord Chancellor, the Master necessary
of the Rolls, the Lords Chief Justice of the Queen's for proceed-
Bench and Common Pleas, and the Lord Chief Baron of ings under
the Exchequer, shall be five, from time to time to make this act.
all such general rules and orders as to the forms of
proceedings and process, and all other matters and things
touching the practice and otherwise in carrying this act
into execution before such courts and judges, as they

may think fit, in England or in Ireland, and in Scotland it shall be lawful for the Court of Session to make such Acts of Sederunt for the like purpose as they shall think fit.

Court or judge may order a rehearing. 5. Upon the application of any party aggrieved by the order made upon any such motion or summons as aforesaid, it shall be lawful for the court or judge by whom such order was made, to direct, if they think fit so to do, such motion or application on summons to be reheard before such court or judge, and upon such rehearing to rescind or vary such order.

Mode of proceeding under this act. 6. No proceeding shall be taken for any violation or contravention of the above enactments, except in the manner herein provided; but nothing herein contained shall take away or diminish any rights, remedies, or privileges of any person or company against any railway or canal or railway and canal company under the existing law.

Company liable for neglect or default in the carriage of animals or goods, notwithstanding notice to the contrary. 7. Every such company as aforesaid shall be liable for the loss of or for any injury done to any horses, cattle, or other animals, or to any articles, goods, or things, in the receiving, forwarding, or delivering thereof, occasioned by the neglect or default of such company or its servants, notwithstanding any notice, condition, or declaration made and given by such company contrary thereto, or in anywise limiting such liability; every such notice condition or declaration being hereby declared to be null and void: Provided always, that nothing herein contained shall be construed to prevent the said companies from making such conditions with respect to the receiving, forwarding, and delivering of any of the said animals, articles, goods, or things, as shall be adjudged by the court or judge before whom any question relating thereto shall be tried to be just and reasonable: Provided always, that no greater damages shall be recovered for the loss of or for any injury done to any of such animals, beyond the sums herein-after mentioned; (that is to say,) for any horse fifty pounds; for any neat cattle, per head, fifteen pounds; for any sheep or pigs, per head, two pounds; unless the person sending or delivering the same to such company shall, at the time of such delivery, have declared them to be respectively of higher value than as above mentioned; in which case it shall be lawful for such company to demand and receive by way of compensation for the increased risk and care thereby occasioned, a reasonable per-centage upon the excess of the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge; and such per-centage or increased rate of charge shall be

Company not liable beyond a limited amount in certain cases, unless the value declared and extra payment made.

notified in the manner prescribed in the Statute Eleventh George Fourth and First William Fourth, chapter sixty-eight, and shall be binding upon such company in the manner therein mentioned: Provided also, that the proof of the value of such animals, articles, goods, and things, and the amount of the injury done thereto, shall in all cases lie upon the person claiming compensation for such loss or injury: Provided also, that no special contract between such company and any other parties respecting the receiving, forwarding, or delivering of any animals, articles, goods, or things as aforesaid shall be binding upon or affect any such party unless the same be signed by him or by the person delivering such animals, articles, goods, or things respectively for carriage: Provided also, that nothing herein contained shall alter or affect the rights, privileges, or liabilities of any such company under the said Act of the Eleventh George Fourth and First William Fourth, chapter sixty-eight, with respect to articles of the descriptions mentioned in the said Act. Proof of value.
Special contract to be signed.
Saving of carriers act.

8. This Act may be cited for all purposes as "The Short title Railway and Canal Traffic Act, 1854."

COURT OF CHANCERY (LANCASTER) 1854.

17 & 18 Vict. cap. 82. An Act further to improve the Administration of Justice in the Court of Chancery of the County Palatine of Lancaster (so far as it amends the Lands Clauses Act.)

[7th August, 1854.]

Monies payable under 13 & 14 Vict. c. 43, s. 12, into the bank of England may be paid into branch bank within the county palatine.

13. And whereas by the twelfth section of the said act of the thirteenth and fourteenth years of the queen, chapter forty-three, it was enacted, that all monies payable in respect of lands situate within the said county palatine, and which are authorized to be paid into or deposited in the bank of England to the account of the accountant general of the high court of chancery, under and by virtue of "The Lands Clauses Consolidation Act, 1845," or any local or special act passed or to be passed incorporating the provisions of the said last-mentioned act, or otherwise authorizing the taking or using of lands situate in the said county palatine, and also that all monies and securities held by any party who might be sued in the court of chancery of the said county palatine in respect thereof, and which, under and by virtue of an act made and passed in the parliament held in the tenth and eleventh years of the reign of her present majesty, intituled An Act for better securing Trust Funds, and for the Relief of Trustees, might be in like manner paid or transferred into or deposited in the bank of England to the account of the said accountant general, might, from and after the passing of the said act now in recital, be in like manner paid or transferred into or deposited in the bank of England, to the joint account of the clerk of the council of the Duchy of Lancaster and of the registrar and comptroller of the said county palatine court, in the matter in respect whereof such payment, transfer, or deposit should be made, and that the receipt of one of the cashiers of the said bank should be a full discharge to the person paying or transferring or depositing the same, and that such monies and securities, and all costs of application in respect thereof, should be dealt with by the said court of chancery of the county palatine in the same manner as the same might be dealt with by the high court of chancery, or by the lord high chancellor or any of the judges of the said high court, if such monies or securities had been paid or transferred into or deposited in the bank of

England to the credit of the accountant general of that court, and the lands in respect of which such payment, transfer, or deposit should be made might be dealt with in the same manner, as if it had been made in manner prescribed by "The Lands Clauses Consolidation Act:" And whereas since the passing of the said recited act the said county palatine has been divided into districts, and registrars and comptrollers have been appointed for such districts respectively: Be it enacted that any monies and securities to be paid or transferred or deposited under the said recited provision may be so paid or transferred into or deposited with some one or other of the branches of the bank of England within the said county palatine, to the joint account of the clerk of the council of the duchy of Lancaster and the registrar and comptroller of the district within which such branch bank is so situate, and the receipt of the manager, or agent, or cashier of such branch bank shall be a full discharge to the person paying or transferring or depositing the same, and such payment, transfer, or deposit shall have the same force and effect as any payment, transfer, or deposit made under the said recited provision would have had: Provided always, that no monies shall be so paid or deposited under or by virtue of "The Lands Clauses Consolidation Act, 1845," or any local or special act as aforesaid, in case the party who would have been entitled to the rents and profits of the lands in respect of which such monies shall be payable, or his or her guardian or committee in case of infancy or lunacy, shall at any time before such payment or deposit serve or cause to be served a notice in writing at the office of the company taking the lands, requesting them not to make the payment or deposit.

17 & 18 VICT.
CAP. 82.

INCLOSURE, &c. OF LAND, 1854.

17 & 18 Vict. cap. 97. An Act to amend and extend the Acts for the Inclosure, Exchange, and Improvement of Land (so far as it amends the Lands Clauses Act.) [10th August, 1854.]

WHEREAS it is expedient that "The Acts for the Inclosure, Exchange, and Improvement of Land" should be amended and further extended: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Application of compensation for common rights paid under 8 & 9 Vict. c. 18.

15. Where any money shall have been or may hereafter be paid to a committee under "The Lands Clauses Consolidation Act, 1845," or under any railway or other special act by which money may have been directed or authorized to be paid to a committee as compensation for the extinction of commonable or other rights, or for lands, being common lands, or in the nature thereof, the right to the soil of which may have belonged to the commoners, and the majority of such committee shall be of opinion that the provisions of such act for the apportionment thereof cannot be satisfactorily carried into effect, such majority may make application in writing to the commissioners to call a meeting of the persons interested in such compensation money, to determine whether or not such compensation money shall be apportioned under the provisions of this act.

Money to be paid into bank of England.

See 22 & 23 Vict. c. 43, s. 9.

Interests to be ascertained by commissioners.

16. If the majority in number and interest shall resolve that such compensation money shall be apportioned, the amount of such compensation money shall be forthwith paid into the bank of England, to the credit of an account to be named by the inclosure commissioners for England and Wales; and the said committee shall be absolutely discharged from all liability in respect of such compensation money, upon payment thereof into the bank of England as herein-before directed.

17. As soon as the said monies shall have been paid into the bank, as aforesaid, the said inclosure commissioners, or any assistant commissioner appointed or to be appointed by them for that purpose, shall proceed to ascertain, determine and award the names of the parties who were entitled to such estates, rights and interests in

the said common and commonable lands, and the amount or value of their respective shares, rights, and interests therein, and the proportionate amount of the price so to be paid as aforesaid for such estates, rights, and interests to which each party so entitled as aforesaid is entitled, in respect of his share, right, or interest as aforesaid; and the award of the commissioners under their common seal, or assistant commissioner in writing under his hand and seal, shall be binding on all parties claiming such estates, rights, and interests as aforesaid; and for the purpose of ascertaining the rights and interests of such parties as aforesaid it shall be lawful for the said inclosure commissioners or assistant commissioner to call such meetings as they or he shall think fit of all persons having or claiming any such rights or interests in the said common and commonable lands as aforesaid, at such time and place as the said commissioners or assistant commissioner shall think fit, so as the same shall be appointed by a public notice thereof in writing to be affixed at least twelve days before such meeting on the principal outer door of the parish church in which such land or any part is situate; and to be inserted in one of the public newspapers published or generally circulated in the county in which such land is situate; and at such meeting the said commissioners or assistant commissioner do and shall proceed to examine into and ascertain all and every the claims which shall be made or put forward in respect of any such rights or interests as aforesaid, and the relative and proportionate value of the estates, rights, and interests of any person or persons claiming to be entitled thereto, and for that purpose do and may employ any valuer or surveyor, and call for and receive such records, deeds, and writings, and such other proof or evidence, as the said commissioners or assistant commissioner may think fit; and they and he are and is hereby authorized and required to take the testimony of any witnesses upon oath (which oath they and he are and is respectively hereby empowered to administer), or to take the affirmation of such witnesses in cases where affirmation is allowed by law instead of oath.

18. All the costs and expenses of the said inclosure commissioners and assistant commissioner, and of any valuer or surveyor employed by them or him under the provisions herein before contained, shall, in the first place, be paid out of such compensation monies, and the residue of the said monies shall be paid and divided between and amongst the said several parties to be named in the said award, and in the shares and proportions to be ascertained and set forth in such award.

17 & 18 VICT.
CAP. 97.

As to the
payment of
costs of in-
closure com-
missioners, and
as to the
residue of
monies.

17 & 18 VICT.
CAP. 97.

Compensation for
limited inter-
ests to
be paid to
trustees.

19. When it shall appear to the commissioners or assistant commissioner that any of the parties entitled to such rights or interests are only entitled thereto for a limited interest, then it shall be lawful for them or him, by their or his award, to direct that the monies to be paid in respect of such right or interest, where the same shall exceed twenty pounds, shall be paid to the trustees acting under the will, conveyance, or settlement under which such person having such limited interest shall be interested in such rights or interests, and where there are no trustees, then into the hands of trustees to be appointed under the hands and seal of the commissioners to be held by them on trusts similar to the uses or trusts to which such rights or interests had been immediately before the payment of such monies into the bank subject to, or as near thereto as the said commissioners or assistant commissioner can ascertain; and the receipts of any trustees to whom any such monies shall be paid as aforesaid shall be good and sufficient discharges for the same: Provided always, that the payment of all such sums shall from time to time be subject to such rules and regulations, for the purpose of ensuring the payment thereof to the person or persons duly entitled to receive the same, as the said commissioners shall by any order direct.

As to sums
payable in
respect of
lands not
exceeding
20l.

20. In all cases where the sum payable by virtue of such award, in respect of any estate, right, or interest, shall not exceed twenty pounds, and the person entitled to such estate, right, or interest shall be under any disability or incapacity, such sum shall and may be paid to the guardian, committee, or husband of such person; and where any such person shall have a limited interest only in such estate, right, or interest, the whole of such sum shall and may, nevertheless, be paid to the person having such limited interest, to his or her guardian, committee, or husband, as the case may be.

COURT OF EXCHEQUER (IRELAND), 1855.

18 & 19 Vict. cap. 50. An Act to amend the
Provisions of the Court of Exchequer (Ireland)
Act, 1850. [16th July, 1855.]

WHEREAS by an act passed in the thirteenth and fourteenth years of the reign of her present Majesty, intituled "An Act for the Transfer of the Equitable Jurisdiction of the Court of Exchequer to the Court of Chancery in Ireland," it is amongst other things enacted, that on the first day of August one thousand eight hundred and fifty the power, authority, and jurisdiction of the court of exchequer in Ireland as a court of equity should be transferred to the court of chancery in Ireland: and whereas doubts have arisen as to the powers of the said court of chancery with respect to monies since directed by parliament to be paid into the bank of Ireland as compensation to the credit of the accountant general of the court of exchequer in Ireland, and it is expedient to remove such doubts: be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

18 & 14 Vict.
c. 51.

1. That where by any act heretofore passed, whether public general or local and personal, any amount or sum of money is authorized or required to be paid into the bank in the name and with the privity of the accountant general of the court of exchequer in Ireland, as compensation, under any such act or any act incorporated therewith, it shall be lawful to pay such money into the bank of Ireland in the name and with the privity of the accountant general of the court of chancery in Ireland, to be placed to his account there, and to be dealt with in like manner as authorized by the recited act with respect to accounts transferred thereunder from the court of exchequer in Ireland to the court of chancery, and as fully and in all respects, and with like powers in relation thereto, as if the said court of chancery had in any such public general or local and personal act as aforesaid been named therein instead of the court of exchequer in Ireland.

Power to
pass certain
monies into
the bank of
Ireland to
the credit
of the ac-
countant
general of
the court of
chancery.

2. Where any amount or sum of money so authorized or required to be paid into the bank in the name and with the privity of the accountant general of the court

Monies
already
paid into the
court of

18 & 19 VICT.
CAP. 50.

chancery to
be dealt with
by that
court.

of exchequer in Ireland, as compensation, under any such act, has already been paid into the bank in the name and with the privity of the accountant general of the court of chancery in Ireland, such payment shall be deemed to have been a good payment, and shall be deemed to have had and shall have the same effect, and the court of chancery shall have the like powers in relation thereto, as if the said court of chancery had been named in such act instead of the court of exchequer, and as well with respect to any right, interest, or claim of her majesty, her heirs and successors, as of all other bodies and persons whatsoever.

18 & 19 VICT. cap. 122.

An Act to amend the Laws relating to the Construction of Buildings in the Metropolis and its Neighbourhood (so far as relates to Railways).

[14th August, 1855.]

PART I.—REGULATION AND SUPERVISION OF BUILDINGS.

6. The following buildings and works shall be exempt from the operation of the first part of this act (*inter alia*). Exemptions.

Bridges, piers, jetties, embankment walls, retaining walls, and wharf or quay walls. Bridges, &c.

The buildings belonging to any canal, dock, or railway company, and used for the purposes of such canal, dock, or railway, under the provisions of any act of parliament. Railway buildings.

20 & 21 VICT. cap. 31.

An Act to amend and explain the Inclosure Acts (so far as relates to Railways).

[10th August, 1857.]

4. For the purpose of removing all doubts as to the power of companies incorporated by special act of parliament for the making and maintaining of any railway, canal, docks, harbour, waterworks or other work, to exchange land belonging to such companies under the provisions of the said acts, be it declared and enacted, that every such company shall be deemed to be a person interested within the meaning of "The Acts for the Inclosure, Exchange and Improvement of Land," for the purpose of exchanging land belonging to the said company, and that notwithstanding the provisions in any act of parliament relating to such company specially limiting the purposes to which such land belonging to the said company shall be applicable. Exchanges of land by railway and other companies.

21 & 22 VICT. cap. 75.

An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies. [2d August, 1858.]

WHEREAS by the Act passed in the session of Parliament 7 & 8 Vict. held in the seventh and eighth years of the reign of her c. 85. present Majesty, chapter eighty-five, section six, it is enacted, amongst other things, with respect to the cheap trains thereby required to be provided in certain cases, that the fare or charge for each third-class passenger by any such train shall not exceed one penny for each mile travelled: And whereas it is expedient to amend the said Act in manner hereinafter mentioned: And whereas it is also expedient to amend the act passed in the ninth year of the reign of her present Majesty, chapter forty-two, intituled "An Act to enable Canal Companies to become Carriers of 8 & 9 Vict. Goods upon their Canals," by restraining as herein-after c. 42. mentioned the exercise of certain powers therein contained: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. When the distance travelled by any third-class passenger by any train run in compliance with the provisions relating to cheap trains contained in the said act of the seventh and eighth of Victoria, chapter eighty-five, is a portion of a mile, and does not amount to one mile, the fare for such portion of a mile may be one penny, or when such distance amounts to one mile, or two or more miles, and a portion of another mile, the fare or charge for such portion of a mile, if the same amounts to or exceeds one half mile, may be one halfpenny: Provided always, that for children of three years and upwards, but under twelve years of age, the fare or charge shall not exceed half the charge for an adult passenger.

2. After the passing of this act, no fare heretofore charged to or received from any third-class passenger by any such train as aforesaid shall in any proceeding to be hereafter instituted be deemed to have exceeded the rate prescribed in such case by the said act of the seventh and eighth of Victoria, chapter eighty-five, if the same shall be deemed excessive.

INCLOSURE, &c. OF LAND, 1854.

17 & 18 Vict. cap. 97. An Act to amend and extend the Acts for the Inclosure, Exchange, and Improvement of Land (so far as it amends the Lands Clauses Act.) [10th August, 1854.]

WHEREAS it is expedient that "The Acts for the Inclosure, Exchange, and Improvement of Land" should be amended and further extended: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Application of compensation for common rights paid under 8 & 9 Vict. c. 18.

15. Where any money shall have been or may hereafter be paid to a committee under "The Lands Clauses Consolidation Act, 1845," or under any railway or other special act by which money may have been directed or authorized to be paid to a committee as compensation for the extinction of commonable or other rights, or for lands, being common lands, or in the nature thereof, the right to the soil of which may have belonged to the commoners, and the majority of such committee shall be of opinion that the provisions of such act for the apportionment thereof cannot be satisfactorily carried into effect, such majority may make application in writing to the commissioners to call a meeting of the persons interested in such compensation money, to determine whether or not such compensation money shall be apportioned under the provisions of this act.

Money to be paid into bank of England.

See 22 & 23 Vict. c. 43, s. 9.

16. If the majority in number and interest shall resolve that such compensation money shall be apportioned, the amount of such compensation money shall be forthwith paid into the bank of England, to the credit of an account to be named by the inclosure commissioners for England and Wales; and the said committee shall be absolutely discharged from all liability in respect of such compensation money, upon payment thereof into the bank of England as herein-before directed.

Interests to be ascertained by commissioners.

17. As soon as the said monies shall have been paid into the bank, as aforesaid, the said inclosure commissioners, or any assistant commissioner appointed or to be appointed by them for that purpose, shall proceed to ascertain, determine and award the names of the parties who were entitled to such estates, rights and interests in

the said common and commonable lands, and the amount or value of their respective shares, rights, and interests therein, and the proportionate amount of the price so to be paid as aforesaid for such estates, rights, and interests to which each party so entitled as aforesaid is entitled, in respect of his share, right, or interest as aforesaid; and the award of the commissioners under their common seal, or assistant commissioner in writing under his hand and seal, shall be binding on all parties claiming such estates, rights, and interests as aforesaid; and for the purpose of ascertaining the rights and interests of such parties as aforesaid it shall be lawful for the said inclosure commissioners or assistant commissioner to call such meetings as they or he shall think fit of all persons having or claiming any such rights or interests in the said common and commonable lands as aforesaid, at such time and place as the said commissioners or assistant commissioner shall think fit, so as the same shall be appointed by a public notice thereof in writing to be affixed at least twelve days before such meeting on the principal outer door of the parish church in which such land or any part is situate; and to be inserted in one of the public newspapers published or generally circulated in the county in which such land is situate; and at such meeting the said commissioners or assistant commissioner do and shall proceed to examine into and ascertain all and every the claims which shall be made or put forward in respect of any such rights or interests as aforesaid, and the relative and proportionate value of the estates, rights, and interests of any person or persons claiming to be entitled thereto, and for that purpose do and may employ any valuer or surveyor, and call for and receive such records, deeds, and writings, and such other proof or evidence, as the said commissioners or assistant commissioner may think fit; and they and he are and is hereby authorized and required to take the testimony of any witnesses upon oath (which oath they and he are and is respectively hereby empowered to administer), or to take the affirmation of such witnesses in cases where affirmation is allowed by law instead of oath.

18. All the costs and expenses of the said inclosure commissioners and assistant commissioner, and of any valuer or surveyor employed by them or him under the provisions herein before contained, shall, in the first place, be paid out of such compensation monies, and the residue of the said monies shall be paid and divided between and amongst the said several parties to be named in the said award, and in the shares and proportions to be ascertained and set forth in such award.

17 & 18 VICT.
CAP. 97.

As to the
payment of
costs of in-
closure com-
missioners, and
as to the
residue of
monies.

17 & 18 VICT.
CAP. 37.

Compensation for limited interests to be paid to trustees.

19. When it shall appear to the commissioners or assistant commissioner that any of the parties entitled to such rights or interests are only entitled thereto for a limited interest, then it shall be lawful for them or him, by their or his award, to direct that the monies to be paid in respect of such right or interest, where the same shall exceed twenty pounds, shall be paid to the trustees acting under the will, conveyance, or settlement under which such person having such limited interest shall be interested in such rights or interests, and where there are no trustees, then into the hands of trustees to be appointed under the hands and seal of the commissioners to be held by them on trusts similar to the uses or trusts to which such rights or interests had been immediately before the payment of such monies into the bank subject to, or as near thereto as the said commissioners or assistant commissioner can ascertain; and the receipts of any trustees to whom any such monies shall be paid as aforesaid shall be good and sufficient discharges for the same: Provided always, that the payment of all such sums shall from time to time be subject to such rules and regulations, for the purpose of ensuring the payment thereof to the person or persons duly entitled to receive the same, as the said commissioners shall by any order direct.

As to sums payable in respect of lands not exceeding 20l.

20. In all cases where the sum payable by virtue of such award, in respect of any estate, right, or interest, shall not exceed twenty pounds, and the person entitled to such estate, right, or interest shall be under any disability or incapacity, such sum shall and may be paid to the guardian, committee, or husband of such person; and where any such person shall have a limited interest only in such estate, right, or interest, the whole of such sum shall and may, nevertheless, be paid to the person having such limited interest, to his or her guardian, committee, or husband, as the case may be.

COURT OF EXCHEQUER (IRELAND), 1855.

18 & 19 Vict. cap. 50. An Act to amend the Provisions of the Court of Exchequer (Ireland) Act, 1850. [16th July, 1855.]

WHEREAS by an act passed in the thirteenth and fourteenth years of the reign of her present Majesty, intituled "An Act for the Transfer of the Equitable Jurisdiction of the Court of Exchequer to the Court of Chancery in Ireland," it is amongst other things enacted, that on the first day of August one thousand eight hundred and fifty the power, authority, and jurisdiction of the court of exchequer in Ireland as a court of equity should be transferred to the court of chancery in Ireland: and whereas doubts have arisen as to the powers of the said court of chancery with respect to monies since directed by parliament to be paid into the bank of Ireland as compensation to the credit of the accountant general of the court of exchequer in Ireland, and it is expedient to remove such doubts: be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

18 & 14 Vict.
c. 51.

1. That where by any act heretofore passed, whether public general or local and personal, any amount or sum of money is authorized or required to be paid into the bank in the name and with the privity of the accountant general of the court of exchequer in Ireland, as compensation, under any such act or any act incorporated therewith, it shall be lawful to pay such money into the bank of Ireland in the name and with the privity of the accountant general of the court of chancery in Ireland, to be placed to his account there, and to be dealt with in like manner as authorized by the recited act with respect to accounts transferred thereunder from the court of exchequer in Ireland to the court of chancery, and as fully and in all respects, and with like powers in relation thereto, as if the said court of chancery had in any such public general or local and personal act as aforesaid been named therein instead of the court of exchequer in Ireland.

Power to pass certain monies into the bank of Ireland to the credit of the accountant general of the court of chancery.

2. Where any amount or sum of money so authorized or required to be paid into the bank in the name and with the privity of the accountant general of the court

Monies already paid into the court of

Reference to two or more arbitrators.

6. Except where the companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows; to wit,

Where there are two companies the reference shall be made to two arbitrators:

Where there are three or more companies the reference shall be made to so many arbitrators as there are companies.

Appointment of arbitrators by companies.

7. Where there are to be two or more arbitrators, every company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other company or companies.

Appointment of arbitrators by Board of Trade.

8. Where there are to be two or more arbitrators, if any of the companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Board of Trade, instead of the company so failing to appoint an arbitrator, may appoint an arbitrator; and the arbitrator so appointed shall for the purposes of this act be deemed to be appointed by the company so failing.

Appointment of arbitrators by companies to supply vacancies.

9. When the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

Appointment of arbitrators by Board of Trade to supply vacancies.

10. Where the company by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit, or failing to act, fail to make the appointment within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Board of Trade may appoint an arbitrator; and the arbitrator so appointed by the Board of Trade shall for the purposes of this act be deemed to be appointed by the company so failing.

Appointment of arbitrator not revocable.

11. When any appointment of an arbitrator is made, the company making the appointment shall have no power to revoke the appointment, without the previous consent in writing of the other company, or every other company in writing under their common seal.

Appointment of umpire by arbitrators.

12. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their umpire.

Appointment of umpire by

13. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the companies, or any of them,

the Board of Trade may appoint an umpire; and the umpire so appointed shall for the purposes of this act be deemed to be appointed by the arbitrators.

14. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

Appointment of umpire by arbitrators to supply vacancy.

15. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness, or failure to act of their umpire, then, on the application of the companies, or any of them, the Board of Trade may appoint an umpire; and the umpire so appointed shall for the purposes of this act be deemed to be appointed by the arbitrators so failing.

Appointment of umpire by Board of Trade, to supply vacancy.

16. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

Powers of succeeding arbitrators and umpires.

17. Where there are two or more arbitrators, if they do not, within such a time as the companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

Reference to umpire.

18. The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators, or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the companies respectively on oath, and may administer the requisite oath; and in Scotland may grant diligence for the recovery of the documents or evidence, and for citing witnesses, and on application to the Lord Ordinary he may issue letters of supplement or other necessary writs in support of the diligence.

Power for arbitrators, &c., to call for books, &c., and administer oath.

19. Except where and as the companies otherwise agree, the arbitrator, and the arbitrators, and the umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Procedure in the arbitration.

20. The arbitrator, and the arbitrators, and the umpire respectively may proceed in the absence of all or any of the companies in every case in which, after giving notice in that behalf to the companies respectively, the arbitrator, or the arbitrators, or the umpire shall think fit so to proceed.

Arbitration may proceed in absence of companies.

Several
awards
may be
made.

21. The arbitrator, and the arbitrators, and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred; and every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

Awards
made in
due time
to bind all
parties.

22. The award of the arbitrator, or of the arbitrators, or of the umpire, if made in writing under his or their respective hand or hands, and ready to be delivered to the companies within such a time as the companies agree on, or, failing such agreement, within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators, or the umpire, shall be binding and conclusive on all the companies.

Umpire
may extend
period for
making his
award.

23. Provided always, That (except where and as the companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made; and if it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Awards
not to be
set aside.

24. No award made on any arbitration in accordance with this act shall be set aside for any irregularity or informality.

Awards to
be obeyed.

25. Except only so far as the companies bound by any award in accordance with this act from time to time otherwise agree, all things by every award in accordance with this act lawfully required to be done, omitted, or suffered shall be done, omitted, or suffered accordingly.

Agree-
ments, ar-
bitrations,
and awards
to have
effect.

26. Full effect shall be given by all the superior courts of law and equity in the United Kingdom, according to their respective jurisdiction, and by the companies respectively, and otherwise, to all agreements, references, arbitrations, and awards in accordance with this act; and the performance or observance thereof may, where the courts think fit, be compelled by distress infinite on the property of the companies respectively, or by any other process against the companies respectively or their respective property that the courts or any judge thereof shall direct, and where requisite frame for the purpose.

Costs of
arbitration

27. Except where and as the companies otherwise agree, the costs of and attending the arbitration and the award

shall be in the discretion of the arbitrator, and the arbitrators, and the umpire respectively. and award.

28. Except where and as the companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the companies in equal shares, and in other respects the companies shall bear their own respective costs. Payment of costs.

29. The submission to any arbitration in accordance with this act may at any time be made a rule of any of her Majesty's superior courts of record at Westminster, or, as the case may be, at Dublin, on the application of any party interested; and the court may remit the matter to the arbitrator, or to the arbitrators, or to the umpire, with any directions the court think fit. Submission to be made a rule of court.

23 VICT. cap. 14.

An Act for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices (so far as relates to Railways).
[3rd April, 1860.]

Commissioners for special purposes to assess railways;
See also 29 & 30 Vict. c. 36, s. 8.

5. No assessment shall be made under this act by the commissioners for general purposes in respect of the annual value or profits and gains arising from any railway, but in lieu thereof every such assessment shall be made by the commissioners for special purposes, and upon the value or profits and gains for the year ending the fifth day of April one thousand eight hundred and sixty, and the said last-mentioned commissioners shall notify the assessment to the secretary or other officer of the company upon which the same shall be made, and the amount of such assessment shall be paid, collected, and levied in like manner as any other assessment made by the said commissioners for special purposes.

and also the persons employed by railway companies.

6. In like manner as aforesaid the commissioners for special purposes shall assess the duties payable under schedule (E.) in respect of all offices and employments of profit held in or under any railway company, and shall notify to the secretary or other officer of such company the particulars thereof, and the said assessment shall be deemed to be and shall be an assessment upon the company, and paid, collected, and levied accordingly; and it shall be lawful for the company or such secretary or other officer to deduct and retain out of the fees, emoluments, or salary of each such officer or person the duty so charged in respect of his profits and gains.

23 & 24 VICT. cap. 29 (Local).

An Act for more effectually carrying out the Clearing House System in Ireland, and for facilitating legal Proceedings in relation thereto.

[15th May, 1860.]

WHEREAS for some time past arrangements have subsisted between several railway, canal, and steam packet companies and public carriers in Ireland for facilitating the transmission of the through traffic in passengers, animals, minerals, goods, and all other descriptions of traffic passing over and upon railways, canals, and steam packets belonging to different companies, for the purpose of affording in respect to such passengers, animals, minerals, goods, and such other traffic the same or the like facilities of through-booking and charges, and otherwise, as if such railways, canals, and steam-packets had belonged to one company, and for the settlement of the accounts of the receipts for through traffic in which two or more companies or parties are interested, and of the accounts arising out of the use by a company or other party of the carrying stock belonging to other companies or parties, and for the audit and adjustment of such traffic accounts of companies or parties as may be submitted to the clearing house for that purpose, which arrangements are conducted under the control and superintendence of a committee appointed by the several railway, canal, and steam packet and other companies, and persons who are parties thereto, which committee is in this act designated "the Committee" and the business of such committee has heretofore been and is now carried on under the name or style of the Irish railway clearing house (hereinafter designated "the Clearing House") in Dawson Street, in the city of Dublin: And whereas the aforesaid arrangements have been productive of great convenience to the public and to the parties thereto, and a considerable saving of expense in the transmission of passengers, animals, minerals, goods, and other traffic over and upon the railways, canals, and steam packets belonging to such parties: And whereas difficulties have arisen in carrying the objects of the clearing house into effect in consequence of the committee not possessing the power of prosecuting or defending actions or suits, or taking other legal proceedings, and it is therefore expedient to remove such difficulties, and to extend and improve the clearing house system and the proceedings connected therewith; but the purposes aforesaid cannot be effected without the authority of Parliament: May it therefore please your majesty that it may be enacted; and be it enacted by

the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Parties to the clearing house to be subject to the provisions of this act.

1. The several companies, corporations, partnerships, and persons who at the time of the passing of this act are parties to the clearing house shall be subject to the provisions of this act, and all such companies, corporations, partnerships, and persons as shall respectively become, in manner herein-after mentioned, parties to the clearing house, shall be subject to the like provisions ; (that is to say,) every other company, corporation, partnership, and person who now is or are or hereafter may be engaged, or is or are or may be empowered to be engaged, either solely or in conjunction with any other business, in the business of carrying passengers, animals, minerals, goods, and moveable chattels and effects of whatever kind, or any of them, by land and water, or by land or by water, to or from any part or parts of Ireland, and all persons who shall be engaged in any such carrying business as aforesaid as leasees of or contractors, with any such company, corporation, partnership, or person.

Other parties may join with assent of committee.

2. If any company, corporation, partnership, or person who may not be a party to the clearing house shall, by writing sealed with the common seal of any such company or corporation, or under the hand of any such partnership or person, request the committee to be admitted a party to the clearing house, and the committee shall assent to such request, such company, corporation, partnership, or person shall from the time of such assent being given, or at such other time as may be specified in the said request, become a party to the clearing house.

Parties may retire on giving notice.

3. If any party to the clearing house shall desire to retire therefrom, or cease to be a party thereto, and shall give notice thereof in writing to the committee, such party shall, at the expiration of three calendar months from the time when such notice shall be given, or if a more distant time shall be stated in such notice then at the time so stated, cease to be a party to the clearing house : Provided always, that such notice shall, in the case of a company or corporation, be sealed with the common seal of such company or corporation, and in the case of a partnership to be under the hands of at least two copartners ; provided also, that such party shall have paid and discharged all sums due by such party to the committee.

Committee may give parties

4. If not less than two thirds of the committee present at a meeting specially summoned shall, by writing signed by their secretary or by two members of the com-

mittee, give notice to any company, corporation, partnership, or person that they or he, as the case may be, shall cease to be a party to the clearing house at a time named in such notice, not being less than one calendar month from the time of giving such notice, such company, corporation, partnership, or person shall, at the time so named, cease to be a party to the clearing house.

5. Subject to the provisions herein-after contained, the committee shall consist of delegates appointed by parties to the clearing house only, and shall be composed in the manner following; (that is to say,) each company or corporation shall appoint a delegate being a director of such company or member of such corporation, each partnership shall appoint one of its members to be a delegate, and each person may appoint himself or another as a delegate, such appointment, in the case of a company or corporation, to be under seal, and in the case of a partnership to be under the hands of at least two copartners, and in the case of a person to be under the hand and seal of such person: Provided always, that any such delegate may represent two or more parties on the committee, but shall in no case have more than one vote; provided also, that the acts of the committee shall be valid and binding, notwithstanding the absence of any such delegate, or that any company, corporation, partnership, or person may happen to be unrepresented at any meeting of the committee.

6. No company, corporation, partnership, or person hereafter admitted a party to the clearing house shall be entitled to be represented on the committee by a delegate, unless the written request to be so admitted shall specify that the party applicant desires to be so represented, and shall specify the mode in which such delegate is to be from time to time appointed and removed, and unless the committee accept this mode of appointment or removal as a proper one; and the mode so specified for appointing any such delegate shall not be altered without the consent of the committee.

7. No person claiming to be a member of the committee under an appointment made after the passing of this act shall be or shall be entitled to act as a member thereof until the committee have resolved that they are satisfied that such member has been duly appointed, and the decision of the committee that such member is duly appointed shall not only be evidence of such due appointment, but shall, until the committee otherwise order, make such person to be a member of the committee though in fact he is not duly appointed.

8. Members of the committee which at the time of the passing of this act carries on business under the name or

style of the Irish railway clearing house (in this act designated "the Clearing House") in Dawson Street in the city of Dublin shall, without any further appointment, be members of the committee under this act.

Meetings of
the com-
mittee,
quorum,
&c.

9. The committee shall meet once a month, and at any other times whereof the secretary shall, at the written request of the chairman for the time being or any two members of the committee, give at least ten days notice in writing to every company, corporation, partnership, and person who may be parties to the clearing house, or to the secretary of every such company and corporation, and every such meeting may be adjourned from time to time as the committee shall think fit; and meetings and adjourned meetings of the committee shall be held at the offices of the clearing house in Dawson street aforesaid, except when the committee shall have appointed some other place, and then at such other place; and in order to constitute a meeting of the committee there shall be present at least three members, including the chairman; and, except where otherwise provided, all questions at every meeting shall be determined by the majority of votes of the committee present, and in case of an equal division of votes the chairman of the meeting shall have a casting vote in addition to his vote as one of the committee; and notice of the business to be brought before any meeting shall, at least three days before the day of such meeting if the meeting be an ordinary one, and at least ten days before the day of such meeting if it be a special one, be given to every company, corporation, partnership, and person who are parties to the clearing house, or the secretary of every such company and corporation.

Appoint-
ment of
the chair-
man.

10. Until the first meeting of the committee, which shall be held after the passing of this act, Sir Edward McDonnell, or other the chairman of the committee for the time being, shall continue in office; and at the first meeting of the committee which shall be held after the passing of this act, and at the meeting to be held in the month of January in each succeeding year, the members of the committee present at the meeting shall, if they think fit, either continue in office the chairman for the time being, or choose another chairman; and a general meeting of the committee specially summoned shall have power to remove any chairman; and if any chairman shall die or resign or be removed, the committee shall have power as soon as may be to choose some other person to fill the vacancy thereby occasioned; but every chairman elected to supply a vacancy other than at the meeting in the month of January in any year shall continue in office so long only as the person in whose place

he shall be so elected would have been entitled to continue if such death, resignation, or removal had not happened: Provided always, that it shall not be necessary that the person chosen as chairman be a delegate of any of the companies, corporations, partnerships, or persons, parties to the clearing house, but in case he shall not be a delegate he shall not be entitled to vote on any question, unless in the case of an equality of votes, when he shall be entitled to give the casting vote.

11. If at any meeting of the committee the chairman shall not be present the members of the committee present shall choose one of their number to be chairman of such meeting.

In the absence of the chairman committee to elect a chairman.

12. The committee may appoint sub-committees consisting of such number of members of the committee as they think fit, and shall fix the quorum of such sub-committees, and may grant to such sub-committees power to do any acts relating to the affairs of the clearing house which the committee could lawfully do, and may from time to time think proper to entrust to them; and all questions at any meeting of the sub-committees shall be determined by a majority of the votes of members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of such sub-committee: Provided always, that the acts, minutes, and proceedings of the sub-committees shall from time to time be submitted to the committee, but all such acts, minutes, and proceedings shall be held to be valid, and shall take effect, unless and until they are overruled by the committee.

Sub-committee meetings thereof.

13. At every meeting of any such sub-committee the members thereof present shall appoint one of their number to be chairman of such meeting, who shall be entitled to give one vote as an ordinary member, and in case of an equality of votes shall be entitled to give another vote as the casting vote.

Chairman of sub-committee.

14. James Waller Elwin shall be the secretary to the committee until his death or resignation or removal, whichever shall first happen, and the committee shall have the power to remove him and all future secretaries, and in the event of the resignation or death or removal as aforesaid of any secretary the committee shall appoint a secretary in his stead.

Appointment of secretary.

15. Any money which shall be received by the committee shall be held by them as trustees for the party or parties to whom the committee shall decide such money to be payable, but no member of the committee shall be answerable for any such money as may be lost or withheld by reason of any cause other than his own personal misconduct.

As to monies received by committee.

Accounts to be settled and balance ascertained and declared by the committee.

Interest on balances in arrear.

Expenses to be paid out of the funds of the clearing house.

Committee may sue for balances or sums due.

16. The accounts of the clearing house, and the balances due to and from the several parties thereto, shall be settled and adjusted by the secretary to the committee for the time being, which secretary shall also settle and determine the amount to be from time to time contributed to the funds of the clearing house by the parties thereto; and in case of any difference respecting such accounts, the decision of the committee to the effect that any balance or sum is payable by any company, corporation, partnership, or person, then or theretofore party to the clearing-house, shall be final and conclusive; and so long as any such balance or sum which the committee shall decide to be payable by any party, or any part thereof, shall not be paid, interest shall accrue and be paid on the same at such rate per centum per annum, not exceeding seven pounds per centum, as the committee shall from time to time determine, and such sum or balance, with interest thereon as aforesaid, shall be a debt due to the committee.

17. The committee shall out of the funds of the clearing house pay all the expenses of the clearing house, and all costs, charges, damages, and expenses which the members of the committee or sub-committee, or any or either of them, as such members or member, or which the secretary as nominal plaintiff or defendant, or other party on behalf of the committee, may bear, sustain, or be put to; and the members of the committee and secretary shall be completely indemnified and saved harmless out of the funds of the clearing house, and by the parties thereto, of, from, and against all actions, suits, and proceedings of any sort, costs, charges, damages, and expenses, to which they or any of them may in any way be subjected as members or member of the committee, or as secretary to the committee, by reason of anything which they or he may bona fide do or omit to do, whether such deed or omission be within their powers or not.

18. The committee may, by action of debt in the name of their secretary, in any court of competent jurisdiction in Dublin, Westminster, or Edinburgh, as the case may be, recover from any company, corporation, partnership, or person any balance or sum, with interest thereon, not exceeding the rate of seven pounds per centum per annum, which the committee shall decide to be payable by such company, corporation, partnership, or person, whether to any other company, corporation, partnership, or person, or on account of the clearing house, and whether such company, corporation, partnership, or person be still at the time of such decision or has then ceased to be a party to the clearing house, and whether such sum or balance and interest shall or shall

not have been previously ascertained by the secretary to be payable.

19. If in any action brought according to this act the defendants shall plead that they never were indebted, or any plea in substance amounting to a denial that the defendants ever were indebted, the plaintiff shall, on issue joined on such plea, be entitled to a verdict, upon proof that the committee decided the sum in question to be payable by the defendants, and that the defendants were either at the time of such decision or at some previous time a party to the clearing house, and in the latter case, upon further proof that such sum was decided to be payable in respect of some transactions, matters, or expenses which happened or were sustained while the defendants were parties to the clearing house.

20. The defendants in such action may plead any matter showing that they have, since the time of the decision, discharged the sum or balance and interest so decided to be payable, but shall not plead any plea denying the plaintiff to be secretary.

21. In support of any action under this act, it shall not be necessary as part of the opening case for the applicant or plaintiff to prove otherwise than as hereafter mentioned that the members of the committee were duly appointed, or that the meeting was duly instituted or holden, or that the proceedings were regular, but it shall be sufficient as *prima facie* evidence of those facts respectively to prove that the decision or resolution in question was made at a meeting purporting to be a meeting of the committee.

22. On the trial of any action under this act any company, corporation, partnership, or person who may have acted as a party to the clearing house shall, upon proof thereof, be estopped from contending that at the time when they so acted they were not a party thereto, and they shall also be precluded from repudiating any accounts adjusted by or authorized to be adjusted by the committee, or the acts of their respective delegates during the time such delegate was a member of the committee.

23. The committee shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by them, and of the orders and proceedings of all their meetings, to be duly entered in books to be kept by them for that purpose; and every such entry shall be signed by the chairman of the meeting at which such appointments, contracts, orders, or proceedings respectively took place, who shall add the word "Chairman" to his signature, and which entries may be made and signed either at or after the meetings to which they respectively relate; and every entry pur-

porting to be so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being members of the committee, or of the signature of such chairman, or of the fact of his having been chairman, all which last-mentioned matters shall be presumed till the contrary be proved.

Books of the committee, or certified copies thereof, to be *prima facie* evidence, and the committee and secretary to be competent witnesses.

24. On the trial of any such action, after it is proved to the satisfaction of the court or judge trying the cause that such company, corporation, partnership, or person is or had once been a party to the clearing house, the books kept by the committee shall be *prima facie* evidence of the truth of the matters therein stated and contained, and such books and all entries therein may be proved by copies, and a certificate that any writing is such a copy subscribed to or endorsed on such writing, and purporting to be signed by the chairman or secretary of the committee, shall be sufficient proof that such writing is a true copy, without proof of the signature or of the official character of the person who signs it, and such copy shall have the same effect in evidence as the originals respectively would have had; and the secretary, although the nominal plaintiff, and the members of the committee, shall be competent witnesses either for the plaintiff or for the defendants.

Suits to be in the name of the secretary to the committee.

25. The committee to the clearing house may in all cases sue and be sued in the name of the secretary to the committee; and in all proceedings at law and in equity, and in bankruptcy or insolvency, or of any other sort, whether civil or criminal, the name of the secretary may be used instead of the names of the members of the committee and of the parties to the clearing house, and proofs in cases of bankruptcy, insolvency, or winding-up affairs may be made by the said secretary.

In criminal proceedings property of committee to be deemed the property of secretary.

26. In any indictment or information for any felony or misdemeanor, wherein it shall be necessary to state the ownership of any property whatsoever, whether real or personal, and the same shall either belong to the committee, or be in their custody or in the custody or possession of any officer, clerk, or servant to the committee, or of any person employed for the purpose or in the capacity of clerk or servant by the committee, or in or on any building or land used for the purposes of the clearing house, or shall be used or intended to be used for the purposes of the clearing house, it shall be sufficient to state such property to belong to the secretary of the committee.

Criminal proceed-

27. In any indictment for embezzlement wherein it shall be necessary to state the party charged with the

embezzlement to have been the clerk or servant of some master or masters, or to have been employed for the purpose or in the capacity of clerk or servant by some master or masters, and such masters shall have been the committee, it shall be sufficient in such indictment to name the secretary of the committee in every place in such indictment where the names of the members of the committee would but for this enactment be required to be inserted.

28. Every notice or requisition on the business of the clearing house, or given pursuant to this act, shall be sufficient if it be in writing, signed by the secretary of the committee or by the secretary or other officer of the company, corporation, or by the partnership or person giving the same, and if it be sent by the general post addressed to the secretary of the company or corporation, or to the partnership or person for whom the same is intended, or to the secretary, at the office of the clearing house, in case such notice or requisition be intended for the committee; and proof of such notice or requisition being deposited in any public letter box or receiving house for letters intended to be forwarded by the general post shall be deemed proof of the due service of such notice or requisition; and notices or requisitions for each member of the committee shall be sufficient if sent in manner aforesaid addressed to him at his private residence, or at the principal office of the company or corporation, or the place of business of the partnership or person whom he represents.

29. Every writ, summons, intimation, or other document in and about all legal proceedings in the name of the secretary to the committee pursuant to this act against any company, corporation, partnership, or person who shall be or shall have been a party to the clearing house may be served or given, as the case may be, by forwarding the same by post in a registered letter from the chief post office in Dublin, addressed in the case of a company or corporation to the secretary thereof at the principal office of such company or corporation, and in the case of all other parties to such parties at their respective places of business, and proof of such writ, summons, intimation, or other document having been so forwarded shall be deemed proof of the due service thereof.

30. In all pleadings or proceedings, civil or criminal, it shall be sufficient to mention the companies, corporations, partnerships, and persons who are parties to the clearing house by the description of "the Parties to the Clearing House mentioned in the Clearing Act (Ireland), 1860," and to describe the committee by the description of "the Clearing House Committee mentioned in the

ings to be prosecuted in the name of secretary.

Service of notices.

Service of writs, &c.

Description of parties to the clearing house and committee in legal

proceedings.

Description of the secretary in legal proceedings.

Actions, &c. not to abate on death or removal or resignation of secretary.

Power to committee to arbitrate on questions referred to them, or to appoint arbitrators.

22 & 23 Vict. c. 59.

Clearing Act (Ireland), 1860," instead of stating the names of the individual parties and members.

31. In all cases where the name of the secretary to the committee shall be used under the authority of this act it shall be sufficient to name and describe him, and to state the authority for using his name.

32. Upon the death or removal or resignation of any secretary no action or suit, or other proceeding pending in his name as plaintiff or defendant, or otherwise, either on behalf of or against the committee, shall abate or be stayed, but as soon as another secretary shall be appointed the name of such new secretary shall be therein after used; and in an action at law such name shall, whether before or after judgment, be introduced by suggestion, to which no plea or demurrer shall be allowed, and the omission to make such suggestion, and an erroneous suggestion, shall be mere irregularities, and shall, on the application of the committee, or of the party opposed to the committee, be rectified, but shall not otherwise be taken advantage of.

33. All such companies, corporations, partnerships, and persons as are mentioned in the first section of this act, whether parties to the clearing house or not, may agree to refer and may refer to the arbitration of the committee or the said sub-committee, or any arbitrators and umpire to be chosen by or out of the committee, any existing or future differences, questions, or other matters whatsoever in which any such companies, corporations, partnerships, and persons then are or thereafter shall be mutually interested, and which they might settle or dispose of between themselves, and may delegate to the committee or the said sub-committee, or to the arbitrators and umpire to be chosen by or out of the committee, as the case may be, power to determine all or any of the terms of any contract to be made between the parties to any such reference; and all the powers conferred on railway companies by "The Railway Companies Arbitration Act, 1859," may be exercised by and shall in reference to this act be held to apply to and include all such parties as aforesaid; and all the provisions of the said "Railway Companies Arbitration Act, 1859," with respect to the appointment of arbitrators and umpire, either in the first instance, or to supply vacancies occasioned by death, incapacity, unfitness, or failure to act, and whether by the companies or by the board of trade, and the powers of arbitrators and umpire, and the proceedings in the arbitration, may be exercised by or in reference to the committee and the said sub-committee, and arbitrators and umpire to be chosen by or out of the committee, as the case may be, on behalf of any such

parties as aforesaid; and all the provisions of the last-mentioned act with respect to awards and the costs of the arbitration and awards shall be held applicable to and shall apply to any references to and awards to be made by the committee or the said sub-committee, or any arbitrators or umpire to be chosen by or out of the committee.

34. The submission to any arbitration in accordance with this act may at any time be made a rule of one of her majesty's superior courts of record at Dublin on the application of any party interested, and the court may remit the matter to the committee or the said sub-committee, or any arbitrator or arbitrators to be chosen by or out of the committee, with any direction the court think fit.

35. All the costs, charges, and expenses of obtaining and passing this act, or incident thereto, shall be paid by the committee out of such moneys as shall come to their hands after the passing of this act, or shall be in their hands at the time of the passing thereof.

36. This act shall be called "The Clearing Act (Ireland), 1860," and shall be deemed to be a public act, as such shall be judicially noticed.

23 & 24 VICT. cap. 41.

An Act to make perpetual an Act of the Twenty-first and Twenty-second Years of Her present Majesty, to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies.
[23rd July, 1860.]

WHEREAS an act was passed in the session of parliament held in the twenty-first and twenty-second years of the reign of her present majesty, intituled "An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies:" And whereas the said act will expire at the end of the present session of parliament, and it is expedient to make the said act perpetual: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

1. That the said recited act shall be perpetual.

Recited act
made per-
petual.

RAILWAYS (IRELAND), 1860.

23 & 24 Vict. cap. 97. An Act for amending and making perpetual the Railways Act, Ireland, (1851). [13th August, 1860.]

WHEREAS it is expedient that "The Railways Act, (Ireland), 1851," should be amended as herein-after provided, and that with such Amendments the said Act should be made perpetual: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. The Words "Twenty-one" shall be substituted for the Words "Thirty-one" in the Eighth Section of the said Act, and the Word "Fourteen" shall be substituted for the Words "Twenty-one" in the Ninth Section of the same Act.

II. The Twenty-second Section of the said Act is hereby repealed; and in lieu thereof be it enacted, That when the Company are desirous, for the Purposes of their Works, of entering upon any Lands before they would be entitled to enter thereon under the Provisions in the said Act, as amended by this Act, it shall be lawful for the Company, at any Time after the Arbitrator shall have framed his Draft Award, upon depositing in the Bank of *Ireland* as herein directed such Sum or Sums as the Arbitrator may certify to be in his Opinion the proper Amount to be so deposited in respect of any Lands authorized to be purchased or taken by the Company, and mentioned in such Draft Award, or of the several Interests in such Lands in respect of which no Agreement shall have been come to between the Company and the Persons entitled thereto, to enter upon and use such Lands for the Purpose of the Railway and Works of the Company: and the Arbitrator shall, upon the Request of the Company, at any Time after he shall have framed such Draft Award, certify under his Hand the Sum or Sums which in his Opinion should be so deposited by the Company in respect of any Lands mentioned in such Draft Award, or of any such Interests therein as aforesaid, before they enter upon or use the same as aforesaid, and the Sum or Sums to be so certified shall be the Sum or Sums set forth in such Draft Award as payable by the

14 & 15 Vict.
c. 70.

See also 27
& 28 Vict. c.
71.

Periods of
notices
shortened.

After de-
posit of
draft
award
company
may, upon
deposit
of such
amount as
arbitrator
may think
fit, enter on
lands.

23 & 24 VICT.
CAP. 97.

Company in respect of such Lands or of such Interests in such Lands in respect of which no Agreement shall have been come to between the Company and the Persons entitled thereto, or such greater Amounts as to the Arbitrator under the Circumstances of the Case shall seem proper; and notwithstanding such Entry as aforesaid, all proceedings for and in relation to the Completion of the said Award, the Delivery of Certificates, and other Proceedings under the said Act as amended by this Act, and under this Act, shall be had, and Payments made as if such Entry and Deposit had not been made: Provided that the Company shall, where they enter upon any Lands by virtue of this present Provision, pay Interest at the Rate of Five Pounds *per Centum per Annum* upon the Purchase and Compensation Money payable by them in respect of any Lands so entered upon from the Time of their Entry until the Time of the Payment of such Purchase Money and Compensation to the Person entitled thereto, or where, under the Provisions of the said Act as amended by this Act, such Purchase Money or Compensation is required to be paid into the said Bank, then until the same with such Interest is paid into such Bank accordingly; and where under this Provision Interest is payable on any purchase or Compensation Money, the Certificate to be delivered by the Company in respect thereof shall specify that Interest is so payable, and the same shall be recoverable in like manner as the Principal Money mentioned in such Certificate.

Mode of
deposit.

III. The Twenty-third Section of the said Act is hereby repealed; and in lieu thereof be it enacted, That the Sum or Sums to be deposited as aforesaid in respect of any Lands or any Interests in any Lands shall be paid into the Bank of Ireland in the Name and with the Privy of the Accountant General of the Court of Chancery in Ireland, to be placed to his Account there, to the Credit of the Company (describing the Company by its proper Name), in the Matter of "The Railways Act (Ireland), 1851," and of the respective Owners of the Lands or of the Interests in Lands in respect of which the same is or are paid as aforesaid, subject to the Control or Disposition of the said Court, and upon such Deposit the Cashier of the said Bank shall give to the Company, or the Party paying in such Money by their Direction, a Receipt for the same.

Deposit to
remain as a
security, and
to be applied
under di-

IV. The Twenty-fourth Section of the said Act is hereby repealed: and in lieu thereof be it enacted, That the Sum or Sums of Money so deposited as last aforesaid shall remain in the Bank by way of Security to the

Parties respectively in respect of whose Interests in the Lands which shall so have been entered upon such Sum or Sums shall have been deposited for the payment of the Money to become payable by the Company to such Parties respectively, for their respective Interests in such Lands under the Award of the Arbitrator; and the Money so deposited may, on Application by Petition of the Company, be ordered to be invested in Bank Annuities or Government Securities, and Accumulated; and upon such Payment as aforesaid by the Company it shall be lawful for the Court of Chancery in *Ireland*, upon a like Application, to order the Money so deposited, or the Funds in which the same shall have been invested, together with the Accumulation thereof, to be repaid or transferred to the Company, or in default of such payment as aforesaid by the Company, it shall be lawful for the said Court to order the same to be applied in such Manner as it shall think fit for the Benefit of the Parties for whose Security the same shall so have been deposited.

23 & 24 VICT.
CAP. 97.

section of
the court of
chancery.

V. If Part only of the Lands charged with any Rent-charge or Fee-farm Rent be required to be taken for the Purposes of the Special Act, the Apportionment of any such Rent or Rentcharge may be settled by Agreement between the Party entitled to the same and the Owner of the Lands on the one Part and the Promoters of the Undertaking on the other Part, and if such Apportionment be not settled by Agreement the same shall be settled by the Arbitrator; and the Owner of the Rent-charge or Fee-farm Rent shall have all the same Rights and Remedies for the Recovery of such apportioned Part, as against the Lands not required for the Purposes of the Special Act, as previously to such Apportionment he had for Recovery of the entire.

Apportion-
ment of rent
charge, &c.
where part
only of the
land
charged is
required.

VI. If any Lands shall be comprised in a Lease for a Life or Lives or for a Term of Years unexpired, Part only of which Lands shall be required for the Purposes of the Special Act, the Rent payable in respect of the Lands comprised in such Lease shall be apportioned between the Lands so required and the Residue of such Lands, and such Apportionment may be settled by Agreement between the Lessor and Lessee of such Lands on the one Part, and the Promoters of the Undertaking on the other Part, and if such Apportionment be not so settled by Agreement between the Parties, such Apportionment shall be settled by the Arbitrator, and after such Apportionment the Lessee of such Lands shall as to all future accruing Rent be liable only to so much of the Rent as shall be apportioned in respect of the Lands not required

Apportion-
ment of rent
of land
under lease
where part
only of such
lands is
required.

23 & 24 VICT.
CAP. 97.

for the Purposes of the Special Act; and as to the Land not so required, and as against the Lessee, the Lessor shall have the same Rights and Remedies for the Recovery of such Portion of Rent as previously to such Apportionment he had for the Recovery of the whole Rent reserved by such Lease; and all the Covenants, Conditions, and Agreements of such Lease, except as to the Amount of Rent to be paid, shall remain in force with regard to that Part of the Land which shall not be required for the Purposes of the Special Act, in the same Manner as they would have done in case such Part only had been included in the Lease.

Costs in case
of traverse.

VII. In case upon the Trial of any Traverse under the Provisions of the said Act it shall appear that the Sum awarded to the Traverser by the Jury shall be less than the Sum awarded by the Arbitrator, it shall be lawful for the Judge, if he shall think fit, to adjudge that such Traverser is not entitled to any Costs of such Traverse, or that the Company is entitled to Costs not exceeding the Sum of Ten Pounds against such Traverser; and such Adjudication of such Judge shall be entered in the Crown Book, and such Costs so awarded shall be deducted from the Purchase or Compensation Money payable by the Company to such Traverser, or shall be recovered from him by Distress in like Manner as is provided by the Fifty-third Section of "The Lands Clauses Consolidation Act, 1845," with respect to Costs payable to Promoters.

Acts to be as
one act and
to be per-
petual.

VIII. "The Railways Act (Ireland), 1851," as amended by this Act, and this Act, shall be read together as One Act, and shall be made perpetual, and this Act shall be held to be incorporated with that Act in any Act already or hereafter incorporating that Act.

Short title.

IX. This Act may be cited as "The Railways Act (Ireland), 1860."

LANDS CLAUSES AMENDMENT, 1860.

23 & 24 Vict. cap. 106. An Act to amend the Lands Clauses Consolidation Act (1845) in regard to Sales and Compensation for Land by way of a Rentcharge, Annual Feu Duty or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Acts.

[20th August, 1860.]

WHEREAS it is expedient to extend the Provisions of the Lands Clauses Consolidation Acts, 1845, in regard to Sales of Land or Compensation for Damages, in consideration of an annual Rentcharge, Annual Feu Duty or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Act for the Purchase of Lands wanted for the Service of the War Department or for the Defence of the Realm: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. So much of the Tenth Section of the Lands Clauses Consolidation Act, 1845, as provides that, save in the Case of Lands of which any Person is seised in fee or entitled to dispose absolutely for their own Benefit, the Consideration to be paid for any Lands, or for any Damage done thereto, shall be in a gross Sum, is hereby repealed.

8 & 9 Vict.
c. 18.

Part of
sect. 10 of
recited act
repealed.

II. The Power to sell and convey Lands in consideration of an annual Rentcharge provided by the Tenth Section of the said Act, and the Power to recover such Rentcharge provided by the Eleventh Section of the said Act, are hereby extended to all Cases of Sale and Purchase or Compensation under the said Act where the Parties interested in such Sale, or entitled to such Compensation, are under any Disability or Incapacity, and have no Power to sell or convey such Lands, or to receive such Compensation, except under the Provisions of the said Act.

Sects. 10 &
11 of recited
act as to
power to sell
&c. lands
for an annual
rent-charge,
and to
recover ex-
tended to all
sales, &c.

23 & 24 VICT
CAP. 106.

Similar
proviso with
regard to
lands sold
under sect.
10 of 8 & 9
Vict. c. 19.

Amount of
rentcharge
to be settled
in manner
directed in
the 9th sec-
tion of
recited acts.

If lands
purchased by
way of rent-
charge.
borrowing
powers to be
reduced pro-
portionally.

III. The Power to sell and convey Lands in consideration of an Annual Feu Duty or Ground Annual, under the Tenth Section of the Lands Clauses Consolidation (Scotland) Act, 1845, and the Power to recover such Annual Feu Duty or Ground Annual, are hereby extended to all Cases of Sale or Purchase or Compensation under the said Act, where the Parties interested in such Sale are under any Disability or Incapacity, and have no Power to sell or convey such Lands, or to receive such Compensation, except under the Provisions of the said Act.

IV. In every Case of such Sale or Compensation by any Parties other than Parties seised in fee or entitled to dispose absolutely of the Lands so sold or damaged, the Amount of such Rentcharge, Annual Feu Duty or Ground Annual, herein-before mentioned, shall be settled in the Manner directed in the Ninth Section of each of the said Acts respectively: Provided that the Amount of such annual Rentcharge, Annual Feu Duty or Ground Annual, shall in no case be less than One Fourth Part greater than the net annual Rent received by the parties beneficially interested in such Lands, upon an Average of the last Seven Years; and that a Charge of Five *per Cent.* on the gross Sum estimated or fixed as aforesaid, by way of Compensation for any Damage that may be done to the said Lands, shall in all such Cases be added to and shall form a Part of the said Rentcharge, Annual Feu Duty or Ground Annual; and that no Fine, Foregift, Grassum, Premium, or other Consideration in the Nature thereof, shall be paid or taken in respect of the Lands so sold or damaged, other than the annual Rentcharge, Annual Feu Duty or Ground Annual, made payable for such Lands: Provided also, that such Rentcharge shall be and remain upon and for the same Uses, Trusts, and Purposes as those upon which the Rents and Profits of the Land so conveyed stood settled or assured at or immediately before the Conveyance thereof, and shall be a First Charge on the Tolls and Rates, if any, payable under the special Act.

V. In case the Promoters of the Undertaking shall be empowered, by any Act or Acts relating thereto, to be passed after the passing of this Act, to borrow Money to an Amount not exceeding a prescribed Sum, then in the event of the Promoters of the Undertaking agreeing at any Time after the passing of this Act with any Person, under the Powers of this Act and of either of the Acts herein-before mentioned, or of either of the said Acts, only, for the Purchase of any Lands in consideration of the

Payment of a Rentcharge, Annual Feu Duty or Ground Annual, the Powers of the Promoters of the Undertaking for borrowing Money shall be reduced by an Amount equal to Twenty Years Purchase of any Rentcharge, Annual Feu Duty or Ground Annual, so for the Time being payable.

23 & 24 Vict.
CAP. 108.

VI. The Clauses contained in "The Lands Clauses Consolidation Act (1845)," relating to the Purchase of Lands by Agreement, and to Agreements for Sale and Conveyances, Sales, and Releases of any Lands or Hereditaments, or any Estate or Interest therein, by Parties under Disability, shall extend and be applicable to all Purchases of Land and Hereditaments for public Purposes which shall be hereafter made by the Council of any City or Borough, with the Sanction of the Commissioners of Her Majesty's Treasury, under the Powers for that purpose contained in "The Municipal Corporation Mortgages, &c. Act, (1860)."

Certain clauses in 8 & 9 Vict. c. 18, extended to purchases of land, &c. for public purposes.

VII. For the Purchase or Acquisition of any Messuages, Lands, Tenements, and Hereditaments wanted for the Service of the Admiralty or of the War Department or for the Defence of the Realm, it shall be lawful for Her Majesty's Principal Secretary of State for the War Department for the Time being to use all or any of the Powers and Provisions by the Lands Clauses Consolidation Act, 1845, and by the Lands Clauses Consolidation (Scotland) Act, 1845, given to Promoters of the Undertaking, as therein mentioned, and for such Purposes the said Principal Secretary shall be deemed and taken to be the Promoters of an Undertaking within the Meaning of the said Act, and all the Powers and Provisions thereof shall, if used by Her Majesty's Principal Secretary of State for the War Department, be treated as if they were contained in the Fifth and Sixth Victoria, Chapter Ninety-four, for the Purpose of being used and made available by the Principal Officers of Her Majesty's Ordnance, and had been transferred to the said Principal Secretary for the Time being by the Eighteenth and Nineteenth Victoria, Chapter One hundred and seventeen, for the Purposes aforesaid: Provided always, that nothing herein contained shall authorize any Purchase otherwise than by Agreement of any Land, except according to the Provisions of the Twenty-third Section of the said Act of the Fifth and Sixth Victoria, or prejudice or affect the Powers and Authorities of the said Principal Secretary for the Time being under the said last-mentioned Statutes, or either of them.

Power to secretary for war to use the powers given to promoters of undertakings by 8 & 9 Vict. c. 18, 19.

VIII. This Act shall be read and construed as Part of the said Lands Clauses Consolidation Act, 1845, or of the

This act
and 8 & 9

23 & 24 VICT.
CAP. 106.

Vict. cc. 18,
and 19, to be
construed
together.

Lands Clauses Consolidation (Scotland) Act, 1845, in all Matters in which it relates to the said Acts respectively; and in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression of "The Lands Clauses Consolidation Acts Amendment Act, 1860."

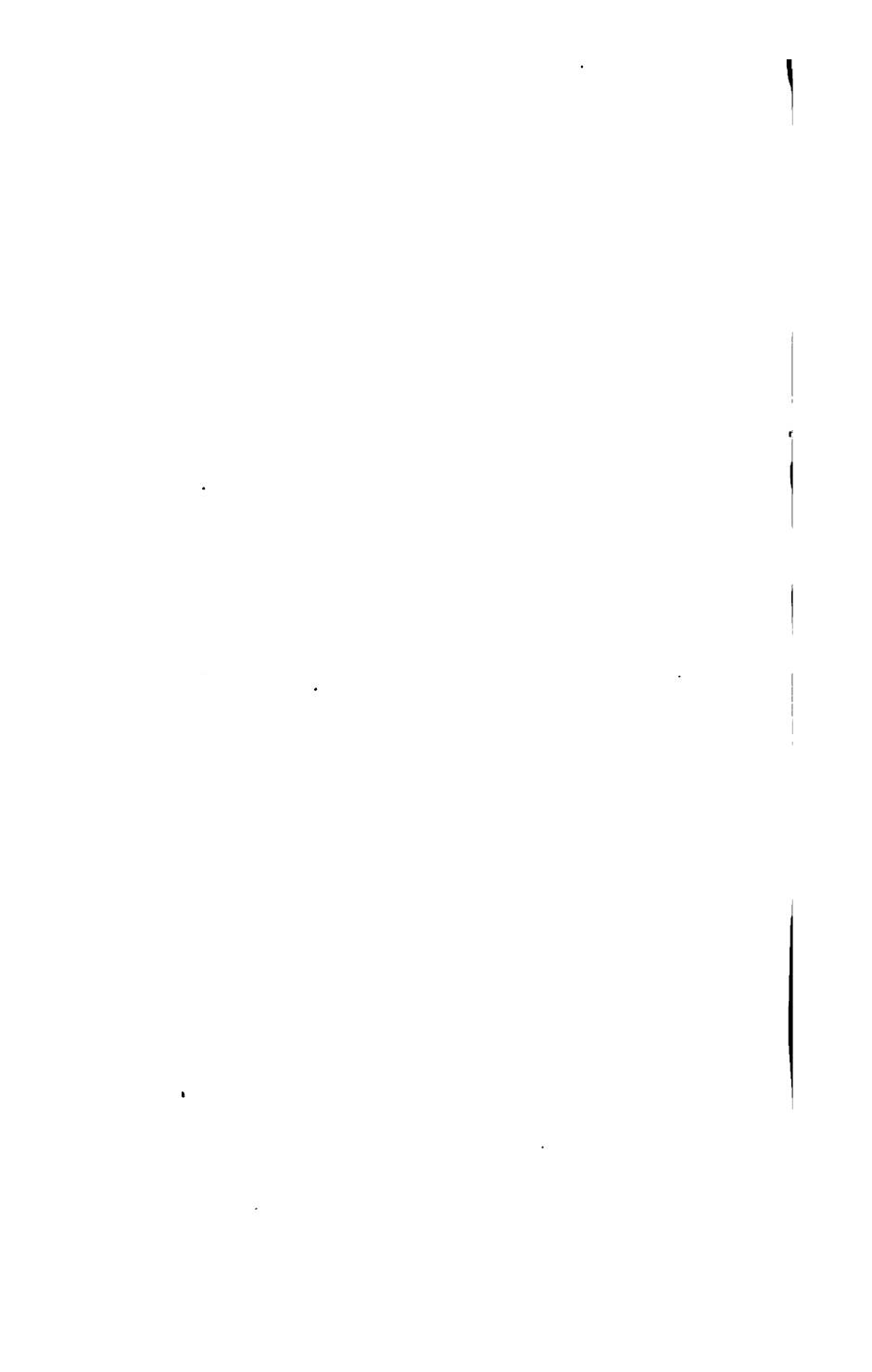
**LONDON COAL AND WINE DUTIES CON-
TINUANCE, 1861.**

24 & 25 Vict. Cap. 42. An Act to continue the Duties levied on Coal and Wine by the Corporation of London, (so far as relates to Railways.)
[22nd July, 1861.]

THE preamble recites (inter alia) the acts 1 & 2 Will. 4, c. 76 (local); 1 & 2 Vict. c. 101 (local); 8 & 9 Vict. c. 101; and 14 & 15 Vict. c. 146 (local); and that by some or one of such acts, two several duties of one penny and twelvecence per ton are authorized to be levied by the corporation of London upon all coals, culm, and cinders brought to any place within the port of London, or within the cities of London and Westminster and the borough of Southwark, or to any place within the distance of twenty miles from the general post office in the city of London, by any railway already constructed or hereafter to be constructed, or by inland navigation, or by any other means of conveyance. **Preamble.**

3. After the passing of this act the expression "London district" used in the said recited act of the fourteenth and fifteenth Victoria, chapter one hundred and forty-six, shall no longer have the meaning assigned to it by that act, but shall mean so much of the several counties of Middlesex, Surrey, Kent, Herts, Essex, Bucks, and Berks as shall be situate within the metropolitan police district, and shall include the cities of London and Westminster. **Metropolitan police district substituted for the London district.**

4. All the directions, powers, and provisions in the said recited act of the fourteenth and fifteenth Victoria, chapter one hundred and forty-six, with respect to returns, certificates, and accounts, and to the erection of boxes and stations and boundary stones or permanent marks on the point of any canal, inland navigation, or railway, or any turnpike or public road which shall be distant twenty miles from the general post office, and all other matters and things relating thereto, shall apply to returns, certificates, and accounts, and to the erection of boxes and stations and boundary stones or permanent marks on the point where any canal, inland navigation, or railway, or any turnpike or public road, first enters or comes within the metropolitan police district. **Commencement of metropolitan police district to be marked in railways, &c.**



HARBOURS AND PASSING TOLLS, &c., 1861.

24 & 25 Vict. Cap. 47. An Act to facilitate the Construction and Improvement of Harbours by authorizing Loans to Harbour Authorities; to abolish Passing Tolls; and for other Purposes, (so far as relates to Railways.)

[1st August, 1861.]

38. No dues shall be levied by the commissioners for Town dues paving, lighting, watching, and improving the town of on coal not Ramsgate on coal, culm, and coke imported, landed, or to be levied in certain cases shipped within the parish or harbour of Ramsgate in the following cases; that is to say,

(1.) When the same are wholly and in good faith consumed in and for the purposes of the said harbour or in vessels lying in the said harbour :

(2.) When the same are wholly and in good faith consumed by the engines or on the premises of any railway company having access by means of a continuous line of railway or tramway to the said harbour :

Railways having access to harbour.

(3.) When the same are conveyed on any such railway to and delivered from the same at any place beyond the parish of Ramsgate, and the adjoining parish of Saint Lawrence, and are not thereafter delivered within either of those parishes :

Conveyed by railway beyond Ramsgate and St. Lawrence.

And if, in any of such cases, dues have in the first instance been paid to the said commissioners, the parties who have paid them shall be allowed a drawback or return thereof, to be paid by the said commissioners out of any funds under their control; but if any person fraudulently obtains or endeavours to obtain the said drawback without being legally entitled to the same, he shall be liable for every such offence to a penalty not exceeding fifty shillings; and such penalty may be recovered and shall be applied in the same manner as penalties are recovered and applied under the act (local and personal) of the first and second years of the reign of her present majesty, intituled "An Act for better Paving, Lighting, Watching, and Improving the Parish of Ramsgate in the County of Kent, and for regulating the Police thereof."

1 & 2 Vict. c. 70 (local.)

47. The said Dover harbour board shall consist of seven members, four of whom shall form a quorum; the said seven members shall be the lord warden for the time

Constitution of Dover harbour board.

24 & 25 VICT. c. 47. i.

24 & 25 VICT.
CAP. 47.

Appoint-
ment of
members by
south-east-
ern railway
company,
and by
London,
Chatham,
and Dover
railway
company.

being of the cinque ports, two burgesses of the borough of Dover elected by the town council every three years, and to be eligible for re-election, a member to be from time to time appointed by the president of the board of trade for the time being, a member to be from time to time appointed by the first lord of the admiralty for the time being, a member to be from time to time appointed by the south-eastern railway company under their common seal, and a member to be from time to time appointed by the London, Chatham and Dover railway company, under their common seal: Provided, that in the event of either or both of the said railway companies failing or declining to appoint a member of the said harbour board within one calendar month after having been required so to do by the president of the board of trade, then such president shall, from and after such default, be entitled thereafter to appoint from time to time another member or members in lieu thereof, as the case may be; and the said lord warden shall ex officio be chairman of the said harbour board; and the said lord warden shall also from time to time nominate under his hand one of the members of the said harbour board to be his deputy, to preside at all meetings at which the said lord warden shall not be present; and in the event of an equality of votes at any meeting of the said board the chairman of such meeting shall be entitled to a casting vote in addition to his ordinary vote.

24 & 25 VICT. cap. 70.

An Act for regulating the Use of Locomotives on Turnpike and other Roads and the Tolls to be levied on such Locomotives and on the Waggon and Carriages drawn or propelled by the same (so far as relates to Railways).

[1st August, 1861.]

6. It shall not be lawful for the owner or driver of Use of any locomotive to drive it over any suspension bridge locomotives nor over any bridge on which a conspicuous notice has restricted been placed, by the authority of the surveyor or persons over sus- liable to the repair of the bridge, that the bridge is in- pension and sufficient to carry weights beyond the ordinary traffic of other bridges of the district, without previously obtaining the consent of the surveyor of the road or bridgemaster under whose charge such bridge shall be for the time being, or of the persons liable to the repair of such bridge; and in case such owner of the locomotive and surveyor of the road or bridge, or bridgemaster, shall differ in opinion as to the sufficiency of any bridge to sustain the transit of the locomotive, then the question shall be determined by an officer to be appointed, on the application of either party, by one of her majesty's principal secretaries of state, whose certificate of sufficiency of such bridge shall entitle the owner of the locomotive to take the same over such bridge.

7. Where any turnpike or other roads, upon which Damage locomotives are or hereafter may be used, pass or are or caused by shall be carried over or across any stream or watercourse, locomotives navigable river, canal or railway, by means of any bridge to bridges or arch (whether stationary or moveable), and such over rail- bridge or arch, or any of the walls, buttresses, or sup- ways, &c., ports thereof, shall be damaged by reason of any loco- to be made motive or any waggon or carriage drawn or propelled by good by or together with a locomotive passing over the same or owners. coming into contact therewith, none of the proprietors, undertakers, directors, conservators, trustees, commis- sioners, or other person interested in or having the charge Company of such navigable river, canal, or railway, or the tolls not liable thereof, or of such bridge or arch, shall be liable to re- for damage pair or make good any damage so to be occasioned, or so occa- to make compensation to any person for any obstruction, sioned. interruption, or delay which may arise therefrom to the

Owners of
locomotives
liable to
company.

use of such bridge or arch, navigable river, canal, or railway, but every such damage shall be forthwith repaired to the satisfaction of the proprietors, undertakers, directors, conservators, trustees, commissioners, or other persons as aforesaid respectively interested in or having the charge of such river, canal, or railway, or the tolls thereof, or of such bridge or arch, by and at the expense of the owner or owners or the person or persons having the charge of such locomotive at the time of the happening of such damage; and all such owner and owners, person and persons, having the charge of such locomotive as aforesaid, shall also be liable, both jointly and severally, to reimburse and make good, as well to the proprietors, undertakers, directors, conservators, trustees, commissioners, and other persons interested in or having the charge of any such navigable river, canal, or railway, or the tolls thereof, or of such bridge or arch, as to all persons navigating on or using, or who but for such obstruction, interruption, or delay would have navigated on or used the same, all losses and expenses which they or any of them may sustain or incur by reason of any such obstruction, interruption, or delay, such losses and expenses to be recoverable by action at law, which action, in case of such proprietors, undertakers, directors, conservators, trustees, commissioners, or other persons so interested as aforesaid, may be brought in the name or names of their agent or agents, clerk or clerks for the time being, or by any person or persons legally authorized to act in their behalf.

MALICIOUS INJURIES TO PROPERTY, 1861.

24 & 25 Vict. Cap. 97. An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property, (so far as relates to Railways.)

[6th August, 1861.]

4. Whosoever shall unlawfully and maliciously set fire to any station, engine-house, warehouse, or other building belonging to or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Setting fire to any railway station.

"Five," see 27 & 28 Vict. c. 47, s. 2.

33. Whosoever shall unlawfully and maliciously pull or throw down or in anywise destroy any bridge (whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct, or aqueduct any highway, railway, or canal shall pass, or do any injury with intent and so as thereby to render such bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Injury to a public bridge.

"Five."

35. Whosoever shall unlawfully and maliciously put, place, cast, or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage, or truck using such railway, shall be guilty of

Placing wood, &c. on railway with intent to obstruct or overthrow any engine, &c.

24 & 25 VICT. C. 97. i.

24 & 25 VICT.
CAP. 97.

"Five."

Obstructing
engines or
carriages on
railways.

Injuries to
electric or
magnetic
telegraphs.

Attempt to
injure such
telegraphs.

felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen, with or without whipping.

36. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall obstruct or cause to be obstructed any engine or carriage using any railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

37. Whosoever shall unlawfully and maliciously cut, break, throw down, destroy, injure, or remove any battery, machinery, wire, cable, post, or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, or in the working thereof, or shall unlawfully and maliciously prevent or obstruct in any manner whatsoever the sending, conveyance, or delivery of any communication by any such telegraph, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour: Provided that if it shall appear to any justice, on the examination of any person charged with any offence against this section, that it is not expedient to the ends of justice that the same should be prosecuted by indictment, the justice may proceed summarily to hear and determine the same, and the offender shall, on conviction thereof, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding ten pounds as to the justice shall seem meet.

38. Whosoever shall unlawfully and maliciously, by any overt act, attempt to commit any of the offences in the last preceding section mentioned, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding ten pounds as to the justice shall seem meet.

OFFENCES AGAINST THE PERSON, 1861.

24 & 25 Vict. Cap. 100. An Act to Consolidate and Amend the Statute Law of England and Ireland relating to Offences against the Person, (so far as relates to Railways.)

[6th August, 1861.]

32. Whosoever shall unlawfully and maliciously put or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to endanger the safety of any person travelling or being upon such railway, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

Placing wood, &c., on a railway, with intent to endanger passengers

"Five," see 27 & 28 Vict. c. 47, s. 2.

33. Whosoever shall unlawfully and maliciously throw, or cause to fall or strike, at, against, into, or upon any engine, tender, carriage, or truck used upon any railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage, or truck, or in or upon any other engine, tender, carriage, or truck of any train of which such first-mentioned engine, tender, carriage, or truck shall form part, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Casting stone, &c., upon a railway carriage, with intent to endanger the safety of any person therein.

"Five."

34. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall endanger or cause to be endangered the safety of any person conveyed or being in or upon a railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Doing or omitting anything to endanger passengers by railway.

24 & 25 VICT. c. 100. i.

HIGHWAYS, 1862.

**25 & 26 Vict. Cap. 61. An Act for the better
Management of Highways in England, (so far
as relates to Railways.) [29th July, 1862.]**

Provisions of
5 & 6 Will.
4, c. 50, to be
applicable
to highways
under local
or personal
acts.

Exception
as to rail-
way com-
panies, &c.

44. All the provisions of the principal act for widening, diverting, and stopping up highways shall be applicable to all highways which now are or may hereafter be paved, repaired, or cleansed under or by virtue of any local or personal act or acts of parliament, or which may be situate within the limits of any such act or acts, except highways which any railway company, or the owners, conservators, commissioners, trustees, or undertakers of any canal, river, or inland navigation, are liable by virtue of any act of parliament relating to such railway, canal, river, or inland navigation to make, maintain, repair, or cleanse.

HARBOURS TRANSFER, 1862.

25 & 26 Vict. Cap. 69. An Act for transferring from the Admiralty to the Board of Trade certain Powers and Duties relative to Harbours and Navigation under Local and other Acts; and for other Purposes (so far as relates to Railways).

[29th July, 1862.]

BE it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This act may be cited as *The Harbours Transfer Act, 1862.* Short title.

2. In this act—

The term, "the Admiralty" shall be taken to mean the lord high admiral of the United Kingdom for the time being, or the commissioners for the time being for executing the office of lord high admiral; and when the said term is used in reference to any other act, it shall be taken to comprise any term whatsoever used in such other act to designate such lord high admiral or commissioners : Interpretation of terms.

The term "the board of trade" shall be taken to mean the lords of the committee of privy council for the time being appointed for the consideration of matters relating to trade and foreign plantations.

Railways Clauses Consolidation Acts, 1845.

6. With respect to any special act that may be passed after the end of the present session of parliament, sections seventeen of "The Railways Clauses Consolidation Act, 1845, and "The Railways Clauses Consolidation (Scotland) Act, 1845," respectively, and all provisions relative thereto in the said acts or in any such future special act contained, shall be read and construed as if the board of trade were named in the said sections instead of the admiralty. Consent and approval of board of trade to railway works on tidal lands

Special acts for railways, harbours, &c.

8. Where any special or local or local and personal act, or act of a local or local and personal nature, already passed or to be passed before the end of the present session of parliament,— Powers for protection of navigation &c. under local acts for harbours, railways,

(1.) Authorizing or regulating the construction of a
25 & 26 VICT. c. 69. i.

25 & 26 VICT.
CAP. 69.

and other
works on
tidal lands,
&c. to be
exercised by
board of
trade.

- railway, or the execution of any work whatever, situate on or affecting tidal lands, or the shore of the sea or of any navigable river, where and so far up the same as the tide flows and reflows; or,
- (2.) Authorizing or regulating the construction or improving of a harbour, dock, or pier, or works connected therewith, by any company, body corporate, commissioners, trustees, undertakers, persons or person; or,
 - (3.) Constituting or altering or regulating the constitution of any harbour or conservancy authority; or,
 - (4.) Altering or regulating the powers or duties of any harbour or conservancy authority,—

contains either expressly or by incorporation or reference or otherwise any provision for any of the purposes following;—

For preventing the construction or execution of any work or the doing of anything without the consent or approval of the admiralty, or for authorizing or requiring any work to be constructed, executed, or maintained, or anything to be done with the consent or on the requisition or to the satisfaction of the admiralty:

For empowering the admiralty to exercise any authority concerning lifeboats, mortars, rockets, tide gauges, or barometers to be provided by any undertakers:

For empowering the admiralty to make a local survey or examination at the expense of any company, body or person:

For empowering the admiralty, in case of any work being abandoned or suffered to fall into disuse or decay, or in any other case, to abate, remove, or alter any work or any part of it, or restore the site thereof to its former condition, at the like expense:

For empowering the admiralty to exercise any authority concerning lights to be maintained at night during the construction or execution of any work:

For empowering the admiralty or the first lord of the admiralty to nominate or appoint a member or members of any board or body of trustees, commissioners, or conservators, or of any harbour or conservancy authority:

For empowering the admiralty to determine any dispute or difference between or among any bodies or persons:

For empowering the admiralty or the first lord of the admiralty to nominate or appoint any arbitrator,

referee, or umpire, or any engineer, inspector, or officer, or any person to fill any place or discharge any duty under such act :

25 & 26 VICT.
CAP. 69.

or any other provision for the protection, management, or regulation of harbours or navigation, or for the exercise of any control or power over or in relation to any harbour authority, or any other provision in any wise relating to conservancy, or authorizing or requiring any act or thing concerning harbours or navigation or conservancy to be done by or in relation to the admiralty,—

Then from and after the thirty-first day of December one thousand eight hundred and sixty-two, such acts and all enactments relative thereto shall be read and construed as if in the respective provisions aforesaid the board of trade were named instead of the admiralty, and the president of the board of trade instead of the first lord of the admiralty.

9. Provided always, that where it appears to the admiralty that the interests of her majesty's naval service require that the whole or any part of any harbour, port, bay, estuary, or navigable river in, on, or adjoining to which there is or shall be any of her majesty's dock-yards, victualling yards steam factory yards, arsenals, or naval stations, should be excepted, either entirely or in some respects, out of the operation of the last foregoing section, the admiralty may give notice in writing to the board of trade that any such harbour, port, bay, estuary, or navigable river as aforesaid, or such part thereof as is in the notice specified, is to be deemed so excepted, either entirely or in the respects therein mentioned ; and every such notice shall be published by the admiralty in the London, Edinburgh, or Dublin Gazette, (according as the place affected may be in England, Scotland, or Ireland,) and thereupon the harbour, port, bay, estuary, or navigable river to which such notice relates, or the part thereof therein specified, shall, either entirely or in the respects therein mentioned, as the case may require, be and remain as if this act had not been passed, but any such notice may be from time to time varied or at any time revoked by a like notice published in like manner.

Power to
admiralty to
retain au-
thority over
ports, &c.
where dock-
yards, &c.
are situate.

METROPOLIS MANAGEMENT AMENDMENT, 1862.

25 & 26 Vict. Cap. 102. An Act to amend the
Metropolis Local Management Acts, (so far as
relates to Railways). [7th August, 1862.]

Plan, &c.
of works
affecting
railways or
canals to be
submitted to
companies.

34. Where any works authorized by this or the recited acts will interfere with any railway or canal, the board or vestry proposing to construct such works shall before commencing the same give notice in writing of their intention so to do to the company owning such railway or canal, and shall together with such notice, deliver a plan and section showing the nature of such interference; and if within seven days after the receipt of such notice the company shall by writing, addressed to the board or vestry, object to the manner in which it is intended to interfere with such railway or canal respectively, on account of the probable interruption or endangering of the traffic thereon, the same works shall not be commenced; and it shall thereupon be referred to an engineer, to be appointed by the board of trade, on the application of either party, to determine the manner of executing the said works, and the determination come to by such engineer shall be binding on both parties.

Line of rail-
way not to
be altered.

35. Provided always, that it shall not be lawful for any board or vestry to alter the level of any railway or canal, unless with the consent of the company owning the same respectively, or, if that be refused, with the consent of the board of trade; and provided also, that nothing in this act contained shall take away or affect the right of any railway or canal company to compensation for the taking or injuriously affecting of any land or property of such company, or for or by reason of the interruption of any traffic on their railway or canal, or for any damages, costs, or expenses which such company may be required to pay in consequence of such interruption.

INLAND REVENUE, 1863.

26 & 27 Vict. Cap. 33. An Act for granting to Her Majesty certain Duties of Inland Revenue; and to amend the Laws relating to the Inland Revenue (so far as relates to Railways.)

[29th June, 1863.]

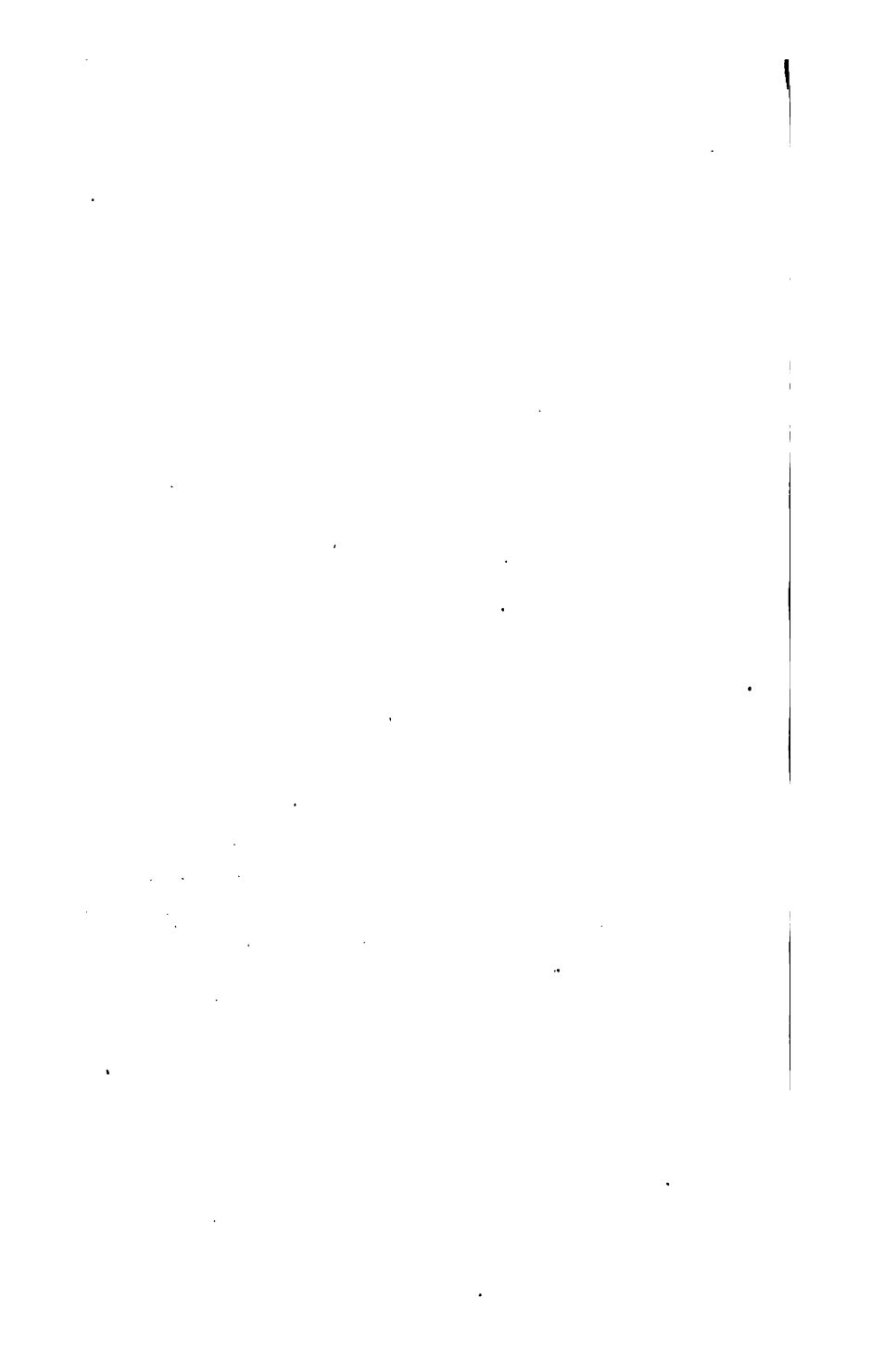
13. Whereas by the fourth section of the act passed in the fifth and sixth years of her majesty's reign, chapter seventy-nine, the proprietor or company of proprietors of every railway in Great Britain and other persons therein named, are required to keep and render certain accounts as therein mentioned, and it is expedient to alter the period for which such accounts are directed to be made up, and the time of delivering the same: Be it enacted, that the proprietor or company of proprietors of every railway in Great Britain, and the persons required by law to keep such accounts as aforesaid, shall deliver to the commissioners of inland revenue or to the proper officer appointed for receiving the same, within twenty days after the termination of every calendar month, a true copy or true copies of the accounts of all sums of money received or charged and paid or accounted for, as in the said act is mentioned, during the whole of the calendar month last preceding; and all the provisions and regulations contained in the said act with regard to the accounts therein directed to be rendered, and all bonds and securities entered into or given or to be entered into or given with relation thereto, shall apply, continue, and be in force as well with respect to any surety as to the principal in any such bond, and to the accounts to be kept and rendered at the time and in the manner by this act directed, and the duties payable in respect thereof.

Accounts of sums received for the conveyance of passengers upon railways to be made up at the close of each calendar month.
5 & 6 Vict. c. 79, s. 4.

14. The exemption from duty granted by the ninth section of the act passed in the seventh and eighth years of her majesty's reign, chapter eighty-five, in respect of the conveyance of passengers by cheap trains shall not extend to any railway train which shall not be a train running on at least six days of the week, or else a train running to or from a market town on a market day, and approved of by the lords of the committee of privy council for trade and plantations as a cheap train for the conveyance of passengers to or from market, or a train approved by the said lords of the committee of privy council as an ordinary train of the railway travelling on Sunday, and conveying third-class passengers at fares not exceeding one penny per mile.

Restriction on exemption from duty on railway passengers granted by 7 & 8 Vict. c. 85, s. 9.

26 & 27 VICT. c. 33.



RAILWAYS CLAUSES, 1863.

26 & 27 VICT. Cap. 92. An Act for consolidating in One Act certain Provisions frequently inserted in Acts relating to Railways.

[28th July, 1863.]

WHEREAS "The Railways Clauses Consolidation Act, 1845," and the "Railways Clauses Consolidation (Scotland) Act, 1845," respectively, were passed in order to comprise in one general act such provisions relating to railways in England or Ireland, or in Scotland, respectively, as were at the times of the passing of those acts usually introduced into acts of parliament authorising the construction of railways:

And whereas sundry provisions of the like nature, but not comprised in the said general acts respectively, are now frequently introduced into acts of parliament relating to railways, and it is expedient to comprise such last-mentioned provisions also in one general act, such act to be applicable to England or Ireland, or to Scotland, as the case may require, and that as well for the purpose of avoiding the necessity of repeating such provisions in special acts relating to railways, as for ensuring greater uniformity in the provisions themselves:

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. This act may be cited as "The Railways Clauses Short title. Act, 1863."

2. This act shall be deemed to be divided into five Division of act into parts. parts, as follows:

Part I. relating to construction of a railway;

Part II. relating to extension of time;

Part III. relating to working agreements;

Part IV. relating to steam vessels;

Part V. relating to amalgamation.

PART I.—CONSTRUCTION OF A RAILWAY.

3. This part of this act shall apply to the railway authorized to be constructed by any special act hereafter passed and incorporating this part of this act. Application of part I., and interpretation of terms.

In this part of this act—

All terms used have the same meanings as the same terms have when used in "The Railways Clauses 26 & 27 VICT. c. 92. i.

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CAP. 92.

Consolidation Act, 1845," and "The Railways Clauses Consolidation (Scotland) Act, 1845," respectively:

The term "tidal river" means any part of a river within the flow and ebb of the tide at ordinary spring tides:

The term "tidal water" means any part of the sea or any part of a river within the flow and ebb of the tide at ordinary spring tides:

The term "tidal lands" means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides.

The provisions respecting the recovery of penalties contained in the said Railways Clauses Consolidation Acts respectively, as the case may require, shall be incorporated with this part of this act.

Alteration of engineering works.

Power to alter engineering works.

4. Notwithstanding anything in the said Railways Clauses Consolidation Acts, respectively, contained,—the company, in the construction of the railway, may deviate from the line or level of any arch, tunnel, or viaduct, described on the deposited plans or sections, so as the deviation be made within the limits of deviation shown on those plans, and subject to the limitations contained in sections eleven, twelve, and fifteen of those acts respectively, and so as the nature of the work described be not altered,—and may also substitute any engineering work not shown on the deposited plans or sections, for an arch, tunnel, or viaduct, as shown thereon; provided that every such substitution be authorized by a certificate of the board of trade; and the board of trade may grant such certificate in case it appears to them, on due inquiry, that the company has acted in the matter with good faith, and that the owners, lessees, and occupiers of the lands in which the substitution is intended to be made consent thereto, and also that the safety and convenience of the public will not be diminished thereby.

Provided, that nothing in the present section shall affect any power given to the company or to the board of trade by section eleven, twelve, fourteen, or fifteen of the last-mentioned acts respectively.

Level crossings.

Trains not to be shunted over level crossings.

5. Where the company is authorized by the special act to carry the railway across a turnpike road or public carriageroad on a level, it shall not be lawful for the company in shunting trains to pass any train over the level crossing, or at any time to allow any train, engine, carriage or truck, to stand across the same.

6. For the greater convenience and security of the public, the company shall erect and permanently maintain a lodge at the point where the railway crosses on the level the turnpike road or public carriageroad; and the company shall be subject to and shall abide by all such regulations with regard to the crossing thereof on the level, or with regard to the speed at which trains may pass the level crossing, as may from time to time be made by the board of trade.

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Company to
erect lodge
at point of
crossing.

If the board fails to erect, or to maintain, such lodge, or to appoint or keep a proper person to watch or superintend the level crossing, or to observe or abide by any such regulation as aforesaid, they shall for every such offence be liable to a penalty not exceeding twenty pounds, and also to a penalty of ten pounds for every day during which the offence continues after the penalty of twenty pounds is incurred.

7. The board of trade may, if it appears to them necessary for the public safety, at any time after the passing of the special act, require the company, within such time as the board of trade directs, and at the expense of the company, to carry the turnpike road or public carriageroad either under or over the railway by means of a bridge or arch, instead of crossing the same on the level, or to execute such other works as, under the circumstances of the case, may appear to the board of trade best adapted for removing or diminishing the danger arising from the level crossing.

Board of
trade may re-
quire bridge
instead of le-
vel crossing.

Where the road is so carried either under or over the railway, it shall not be necessary for the company to erect or maintain a lodge at the point where the road is crossed, or to appoint a person to watch or superintend the crossing thereat, nor shall they be liable to any penalty for failure so to do.

8. If the board of trade certifies that the public safety requires that additional lands be taken by the company for the purpose of the work directed by the board of trade to be executed, the company may, subject to the provisions of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation (Scotland) Act, 1845," as the case may require, enter upon, take, and use, all or any part of the lands specified in the certificate of the board of trade as being necessary for the purpose of the work; and the board of trade before issuing the certificate shall cause at least three months notice to be given to any person who may be entitled to claim under the last-mentioned acts, or otherwise, compensation in respect of the taking of such lands or in respect of such work.

Power to
company to
take addi-
tional land for
such work.
8 Vict. c. 13.
8 Vict. c. 19.

26 & 27 VICT.
CAP. 92.

Communications with other railways to be made under the direction of the engineer of those railways.

Junctions.

9. Where the company is authorized by the special act to make a junction between the railway and any other railway, then and in every such case all interferences with the works of the other railway, necessary or convenient for effecting the junction, shall be made under the superintendence and to the reasonable satisfaction of the engineer for the time being of the company or person to whom the other railway belongs; and in case of any difference arising as to the mode of effecting the junction, the same shall be determined by a referee to be appointed by the board of trade, on the application of either party, at the cost of the company making the junction.

Company to acquire only easements in land of other railway company.

10. With respect to any lands belonging to the company or person to whom the other railway belongs which the company are by the special act authorized to use, enter upon, or interfere with, for the purposes of the junction, the company shall not, except by agreement, or unless otherwise provided in the special act, purchase and take the same, but the company may purchase and take, and such other railway company or person may and shall sell and grant accordingly, an easement or right of using the same for the purposes of the junction.

Not to take lands or interfere with works of other company further than necessary.

11. Nothing relative to the junction in this act contained shall be deemed to authorize the company for the purposes of the junction to take or enter upon any lands belonging to the company or person to whom the other railway belongs, or to alter or interfere with any railway, or any of the works thereof, further or otherwise than is necessary for making the junction and intercommunication between the railways, as shown on the deposited plans and sections of the railway to which the special act relates, without the previous consent in writing in every instance of such other railway company or such person.

As to expense of signals, watchmen, &c.

12. The company or person with whose railway the junction is made may from time to time erect such signals and conveniences incident to the junction, either on their or his own lands or on the lands of the company making the junction, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to, or interference with, the traffic at and near the junction. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the company or person with whose railway the junction is made; and all the expenses of erecting and maintaining those signals and conveniences, and of employing those watchmen, switchmen, and other

persons, and all incidental current expenses, shall, at the end of every half year, be repaid by the company making the junction, and in default thereof may be recovered from them in any court of competent jurisdiction.

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CAP. 92.

Protection of navigation.

13. Where the company is authorized by the special act to construct, alter, or extend any work on, in, over, through, or across tidal lands or a tidal water, the company shall, on or near the work, during the whole time of the constructing, altering, or extending thereof, exhibit and keep burning at their own expense, every night from sunset to sunrise, such lights (if any) as the board of trade from time to time requires or approves; and (notwithstanding the enactments for the time being in force respecting lighthouses) shall also on or near the work, when completed, always maintain, exhibit, and keep burning, at their own expense, every night from sunset to sunrise, such lights (if any) for the guidance of ships as the board of trade from time to time requires or approves.

Lights on
works.

If the company fails to comply in any respect with the provisions of the present section, they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

14. Where the company is authorized or required by the special act to construct a bridge over a navigable tidal water, and the special act does not make express provision respecting the span or spans thereof, then the company shall construct the same with a span or spans of such headway and waterway, and with such opening span or spans (if any), and according to such plan, as the board of trade directs or approves.

Construction
of bridges.

15. Where the company constructs a bridge with an opening span, it shall not be lawful for the company to detain any vessel, barge, or boat at the bridge for a longer time than may be necessary for admitting a carriage or engine traversing the railway and approaching the bridge to cross the bridge, and for opening the bridge to admit the vessel, barge, or boat to pass; and the company shall be subject to and shall abide by such regulations with regard to the user of the bridge as may from time to time be made by the board of trade.

User of
bridges.

If the company detains a vessel, barge, or boat longer than the time aforesaid, or fails in any respect to abide by any such regulation as aforesaid, they shall for every such offence be liable to a penalty not exceeding twenty pounds, without prejudice to any remedy against them for any loss or damage sustained by any person.

26 & 27 VICT.
CAP. 92.

Access to
the shore
under or
across the
railway.

16. Where the railway cuts off access between the land and a tidal water or tidal lands, then and in every such case the company shall, during the construction of the railway, and from time to time thereafter, make, and shall permanently maintain, and allow to be used by all persons, at all times, free of toll or other charge, all such footways and carriageways over, under, or across the railway, or on a level therewith, as the board of trade from time to time directs or approves: provided always, as follows:

- (1.) The company shall not be obliged to make a footway or carriageway over lands for the use of an owner or occupier who has agreed to receive and has been paid compensation for the severance thereof from the tidal water or tidal lands:
- (2.) The company shall not be obliged to make or to allow to be made a footway or carriageway in such manner as would interfere with the working or using of the railway:
- (3.) The expense of the making and maintenance of a footway or carriageway required to be made after the construction of the railway shall be defrayed by the persons or body interested in the tidal water or tidal lands for whose benefit or convenience the same is required.

Where the footway or carriageway is made across the railway on the level, then the manner of the making and watching of the level crossing shall be subject to the approval of the board of trade; and where the level crossing is made after the construction of the railway, then all expenses attending the watching thereof shall be defrayed by the persons or body interested in the tidal water or tidal lands for whose benefit or convenience the same is required.

Prohibition
of deviation
of certain
works with-
out consent
of board of
trade.

17. Where the company is authorized by the special act to construct a railway skirting a public navigable tidal river or channel, the company shall not make any deviation of the railway from the continuous centre line thereof marked on the plan deposited by them at the board of trade, even within the limits of deviation shown on that plan, in such manner as to diminish the navigable space, without the previous consent of the board of trade, or otherwise than in such manner as is expressly authorized by the board of trade.

If any deviation is made in contravention of the present section, the board of trade may abate and remove the work in the construction whereof the deviation is made, or any part thereof, and restore the site thereof to its former condition, at the expense of the company; and the amount of such expense shall be a debt due from the

26 & 27 VICT. C. 92. vi.

company to the crown, and be recoverable accordingly with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company.

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CAP. 92.

18. If a work constructed by the company on, in, over, through, or across tidal lands or a tidal water is abandoned, or suffered to fall into decay, the board of trade may abate and remove the work, or any part of it, and restore the site thereof to its former condition, at the expense of the company; and the amount of such expense shall be a debt due from the company to the crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company.

Abatement
of work
abandoned
or decayed.

19. If at any time the board of trade deems it expedient, for the purposes of the special act or of this part of this act, to order a survey and examination of a work constructed by the company on, in, over, through, or across tidal lands or tidal water, or of the intended site of any such work, the company shall defray the expense of the survey and examination; and the amount thereof shall be a debt due from the company to the crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company.

Survey of
works by
board of
trade.

PART II.—EXTENSION OF TIME.

20. Where a railway is authorized to be constructed by a special act passed either before or after the passing of this act, and the time limited by the special act for the exercise of powers of compulsory purchase of lands, or of powers for construction of the railway and works, is extended by a special act hereafter passed and incorporating this part of this act,—then and in every such case the justices, arbitrators, umpires, or juries, as the case may be, who award or assess the compensation to be made by the company to the owners or occupiers of, or other persons interested in, lands taken or used for the purposes of the railway and works, or injuriously affected by the construction thereof, shall, in estimating the amount of such compensation, have regard to, and assess compensation for, the additional damage (if any) sustained by those owners, occupiers, or other persons, by reason of the extension of time.

Parties ag-
grieved by
extension of
time may
have com-
pensation for
additional
damage.

21. The extension of time shall not affect any contract entered into or notice given by the company before the passing of the special act granting the extension, for purchasing, taking, or using any lands which the company was entitled to purchase, take, or use; but every such contract and notice shall be construed and take

Existing
contracts
and notices
to take lands
not to be
affected.

26 & 27 VICT. c. 92. vii.

26 & 27 VICT.
CAP. 92.

effect, and the same proceedings may be had thereunder, and all parties thereto shall be entitled to the same rights and remedies in respect thereof, at law and in equity, as if the extension had not been granted.

PART III.—WORKING AGREEMENTS.

Restrictions
on agree-
ments be-
tween com-
panies.

22. Where two or more companies are authorized by a special act hereafter passed and incorporating this part of this act, to agree among themselves with respect to all or any of the following purposes; namely,—

The maintenance and management of the railways of the companies respectively, or any one or more of them, or any part thereof respectively, and of the works connected therewith respectively, or any of them;

The use and working of the railways or railway, or of any part thereof, and the conveyance of traffic thereon;

The fixing, collecting, and apportionment of the tolls, rates, charges, receipts and revenues levied, taken, or arising in respect of traffic;—

then and in every such case the authority so to agree, or the agreement when entered into, shall not in any manner affect any of the tolls, rates or charges which the companies parties thereto are from time to time respectively authorized to demand and receive from any person or from any other company; but all such persons and companies shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of the several companies parties to the agreement, on the same terms and conditions, and on payment of the same tolls, rates, and charges as they would be if such authority had not been given, or the agreement had not been entered into.

Sanction of
shareholders
to agree-
ments.

23. The agreement shall not, save so far as its terms and conditions are authorized by "The Railways Clauses Consolidation Act, 1845," or by "The Railways Clauses Consolidation (Scotland) Act, 1845," as the case may require, or by any other general statute or law from time to time in force with respect to the companies parties to the agreement, have any operation unless and until it is sanctioned by such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the several companies parties thereto, present (personally or by proxy) at a general meeting of each company specially convened for the purpose (in manner hereinafter mentioned), as is prescribed in the special act, and if no proportion is prescribed, then by three-fifths of such votes.

Every such meeting shall be convened by circular addressed to each such shareholder and stockholder, and
26 & 27 VICT. C. 92. viii.

served in the manner prescribed by "The Companies Clauses Consolidation Act, 1845," or "The Companies Clauses Consolidation (Scotland) Act, 1845," as the case may require, with respect to notices requiring to be served by the company upon the shareholders, and also by advertisement inserted once at least in each of two consecutive weeks in some newspaper published or circulating in the county prescribed in the special act; and if no county is prescribed, then in the county in which the head office of the company is situate, the last of such advertisements to be published not less than seven days before the meeting.

26 & 27 VICT.
CAP. 92.

8 VICT. c. 16.
8 VICT. c. 17.

24. Before the companies enter into the agreement, notice of their intention to do so shall be given by them or one of them, in a form to be approved by the board of trade, inserted once at least in each of three successive weeks in some newspaper published or circulating in the county prescribed in the special act, and if no county is prescribed, then in the county or one of the counties in which each railway to the maintenance, management, use, or working whereof the proposed agreement relates, or some portion of that railway, is situate; and the notice shall set forth within what time and in what manner any company or person aggrieved by the proposed agreement, and desiring to object thereto, may bring the objection before the board of trade.

Public notice
of intention
to enter into
such agree-
ment.

25. The agreement shall not have any operation until it is approved by the board of trade; and the board of trade shall not approve the agreement without being satisfied of its having received such sanction of meetings of the respective companies as aforesaid.

Approval of
board of
trade.

26. The companies parties to the agreement may, in accordance therewith and for the purposes thereof, appoint a joint committee, composed of such number of the directors of each company as the companies think proper, and from time to time may vary and renew the joint committee as occasion requires, and may regulate the proceedings of the joint committee, and may delegate to the joint committee all such of the powers of the companies as the companies think necessary for carrying into effect the purposes of the agreement; and the joint committee shall have and may exercise the powers so from time to time delegated to them in like manner as the same powers might be had and exercised by the companies respectively or their respective directors.

Joint com-
mittee for
purposes of
agreement.

27. At the expiration of the first or any subsequent period of ten years after the making of the agreement, the board of trade may, if they are of opinion that the interests of the public are prejudicially affected thereby,

Agreements
between
companies
may be mo-
dified by
board of
trade.

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CAP. 92.

cause the same to be revised ; and the board of trade may require the companies parties thereto to publish such notices of any intended revision of the agreement as the board of trade may direct ; and the board of trade may modify the agreement in such manner as may seem expedient for the protection of the interests of the public, and may declare the modification to be part of the agreement, and the same shall be read and take effect accordingly.

Working
agreements
between a
company
and an in-
dividual.

28. Where a company is authorized by a special act hereafter passed, and incorporating this part of this act, to agree with a person being the proprietor of a railway with respect to all or any of the purposes specified in this part of this act, then and in every such case the provisions of this part of this act shall apply, mutatis mutandis, to the company in relation to such authority and to the agreement entered into by virtue thereof.

Alteration of
agreement.

29. For the purposes of this part of this act, any alteration of an agreement by the parties thereto shall be deemed an agreement.

PART IV.—STEAM VESSELS.

Provision for
securing
equality of
treatment.

30. Where a railway company incorporated either before or after the passing of this act is authorized by a special act hereafter passed, and incorporating this part of this act to build, or buy, or hire, and to use, maintain, and work, or to enter into arrangements for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, and to take tolls in respect of such steam vessels, then and in every such case tolls shall be at all times charged to all persons equally, and after the same rate in respect of passengers conveyed in a like vessel passing between the same places under like circumstances ; and no reduction or advance in the tolls shall be made in favour of or against any person using the steam vessels in consequence of his having travelled or being about to travel on the whole or any part of the company's railway, or not having travelled or not being about to travel on any part thereof ; or in favour of or against any person using the railway in consequence of his having used or being about to use or his not having used or not being about to use the steam vessels ; and where an aggregate sum is charged by the company for conveyance of a passenger by a steam vessel and on the railway, the ticket shall have the amount of toll charged for conveyance by the steam vessel distinguished from the amount charged for conveyance on the railway.

26 & 27 VICT. c. 92. x.

81. The provisions of "The Railway and Canal Traffic Act, 1854," so far as the same are applicable, shall extend to the steam vessels and to the traffic carried on thereby.

26 & 27 VICT.
CAP. 92.

Application
of 17 & 18
VICT. c. 31.

82. The company may from time to time make bye-laws in relation to passengers, animals and goods conveyed in or upon the steam vessels, and as to the embarkation and disembarkation thereof respectively, and may enforce the observance of the same by penalties in the same manner as they may with respect to passengers, animals and goods conveyed upon their railway; such bye-laws to be sanctioned and authenticated in the same manner as is required by any special or other act with respect to bye-laws relating to the company's railway, and being published by being painted on boards, or printed on paper and pasted on boards, and hung up or affixed and continued on some conspicuous part of every steam vessel and landing-place of the company; and such bye-laws, and all penalties in respect of the breach thereof, shall be enforced and recovered in the same manner as is provided with respect to bye-laws relating to the company's railway, and to penalties in respect of the breach thereof.

Company
empowered
to make
bye-laws for
regulating
steam
vessels.

83. All tolls and charges for the steam vessels due and payable to the company on any account whatsoever, and all costs, damages, and expenses by the special act directed to be paid in respect of the steam vessels, may be levied by distress; and in England or Ireland any justice, and in Scotland the sheriff, may, on application by or on behalf of the company, issue his warrant accordingly.

Recovery of
money by
distress.

The justice or sheriff who issues the warrant of distress may order that the costs of the proceedings for the recovery of the toll or sum shall be paid by the person liable to pay the toll or sum, and the cost shall be ascertained by the justice or sheriff, and shall be included in the warrant of distress for the recovery of the toll or sum.

84. Any number of names and sums may be included in any warrant of distress or notice obtained or given by the company for any of the purposes of this part of this act, or of the provisions of the special act with respect to the steam vessels, and may be stated either in the body of the warrant or notice, or in a schedule thereto.

Several
names in
one warrant.

85. In every seventh year after the passing of the special act, reckoned from the first day of January next after its passing, the board of trade, if they are of opinion that the interests of the public are prejudicially affected by the exercise of the powers of the company relative to steam vessels, may give to the company notice in writing

Provision
for cessor of
powers as to
steam ves-
sels, on
report from
board of
trade.

26 & 27 VICT. CAP. 92. thereof, and of the reasons on which that opinion is founded; and if the company does not before the beginning of the then next session of parliament make provision to the satisfaction of the board of trade for protection of the interests of the public, or if the injury done to the interests of the public is in the opinion of the board of trade incapable of being remedied by the company, then the board of trade, at the beginning of the session of parliament then next following, shall report to both houses of parliament such their opinion, and the reasons on which that opinion is founded, and at the expiration of twelve calendar months after the presentation to the houses of parliament of that report, the powers of the company relative to steam vessels, or such of them as are specified in the report, shall, unless parliament in the meantime otherwise provides, cease to be exercised.

PART V.—AMALGAMATION.

Application of Part V. 36. This part of this act shall apply where two or more railway companies, respectively incorporated either before or after the passing of this act, are amalgamated by a special act hereafter passed and incorporating this part of this act.

Definition of cases of amalgamation. 37. For the purposes of this part of this act, companies shall be deemed amalgamated by a special act in either of the following cases:

- (1.) Where by the special act two or more companies are dissolved and the members thereof respectively are united into and incorporated as a new company:
- (2.) Where by the special act a company or companies is or are dissolved, and the undertaking or undertakings of the dissolved company or companies is or are transferred to another existing company, with or without a change in the name of that company.

And in this part of this act such special act is referred to as the amalgamating act; the company incorporated or continued by or under the amalgamating act is referred to as the amalgamated company; and the time prescribed in the amalgamating act for the amalgamation taking effect, and if no time is prescribed, then the time of the passing of the amalgamating act is referred to as the time of amalgamation.

Undertakings of dissolved companies vested in amalgamated company.

38 In every case of amalgamation, the undertaking, railways, harbours, navigations, ferries, wharfs, canals, works, real and personal property, powers, authorities, privileges, exemptions, rights of action and suit, and all other the rights and interests of the dissolved company

shall, subject to the contracts, obligations, debts, and liabilities of that company, become at the time of amalgamation, and by virtue of the amalgamating act, vested in the amalgamated company, and may and shall be held, used, exercised and enjoyed by the amalgamated company in the same manner and to the same extent as the same respectively at the time of amalgamation are, or if the amalgamating act were not passed might be held, used, exercised, and enjoyed by the dissolved company.

39. The special acts relating to or affecting the dissolved company or their undertaking in force at the passing of the amalgamating act, shall, except so far as they are thereby expressed to be varied or repealed, remain in full force; and all rights and powers thereby conferred on and vested in the dissolved company in relation to their undertaking may be enjoyed and exercised by the amalgamated company in relation to the dissolved undertaking; and all matters to be done, continued, or completed, or which but for the amalgamation would, might, or could be done, continued, or completed by the dissolved company, or their directors, officers, or servants, under or by virtue of those acts, shall or may be done, continued or completed by the amalgamated company and their directors, officers, and servants, as the case may be; and every special act, so far as it relates to or affects the dissolved company or their undertaking, shall be read and construed as if the name of the amalgamated company had been used therein in relation to that undertaking instead of the name of the dissolved company.

40. Except as may be otherwise provided in the special act, all debts and money due from or to the dissolved company, or any persons on their behalf, shall be payable and paid by or to the amalgamated company; and all tolls, rates, duties and money due or payable by virtue of any act relating to the dissolved company, from or to that company, shall be due and payable from or to the amalgamated company, and shall be recoverable from or by the amalgamated company by the same ways and means, and subject to the same conditions as the same would or might have been recoverable from or by the dissolved company if the amalgamating act had not been passed.

41. All deeds, conveyances, grants, assignments, leases, purchases, sales, mortgages, bonds, covenants, agreements, contracts and securities which before the amalgamation have been executed, made, or entered into by, with, to or in relation to the dissolved company, or the directors thereof, and which are in force at the time of amalgamation, and all obligations and liabilities which

26 & 27 VICT.
CAP. 92.

Acts relating to dissolved companies to apply to amalgamated company.

Saving debts and claims of dissolved companies.

Saving conveyances, contracts, &c.

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before the amalgamation have been incurred by or to, or which but for the amalgamation might or would have arisen in relation to the dissolved company or the directors thereof, shall be as valid and of as full force and effect in favour of, against or in relation to the amalgamated company as if the same had been executed, made, or entered into by, with, or to, or in relation to, or had been incurred by or to or had arisen in relation to the amalgamated company by name.

Causes and
rights of
action
reserved.

42. All causes and rights of action or suit accrued before the time of amalgamation, and then in any manner enforceable by, for or against the dissolved company, shall be and remain as good, valid, and effectual for or against the amalgamated company as they would or might have been for or against the dissolved company affected thereby, if the amalgamating act had not been passed.

Actions not
to abate.

43. Nothing in the amalgamating act or in this part of this act shall cause the abatement, discontinuance, or determination of or in anywise prejudicially affect any action, suit, or other proceeding at law or in equity commenced by or against the dissolved company, either solely or jointly with any other company or with any person, before the time of amalgamation, and then pending; but the same may be continued, prosecuted, or enforced by or against the amalgamated company, either solely or, as the case may require, jointly with such other company or with such person; and all persons committing offences against any of the provisions of any special act relating to the dissolved company before the amalgamation may be prosecuted, and all penalties incurred by reason of such offences may be sued for and recovered in like manner in all respects as if the amalgamating act had not been passed,—the amalgamated company being in respect of all such matters considered as identical with the dissolved company.

Saving sub-
missions and
awards re-
lating to
dissolved
companies.

44. No submission to arbitration of any matter in dispute between the dissolved company and any other company or any person, under which any reference is pending and incomplete at the time of amalgamation, and no award theretofore made and then remaining in force, shall be revoked or prejudicially affected by anything in the amalgamating act or in this part of this act contained; but every such submission and award shall be as valid and effectual for or against the amalgamated company as it would have been for or against the dissolved company.

Unexecuted
works of
dissolved
companies
may be com-
pleted.

45. All works which the dissolved company is at the time of amalgamation authorized or bound to execute and complete, and which are not then executed or completed, may or shall (as the case may require) be executed

or completed by the amalgamated company, and for that purpose the amalgamated company shall have and be subject to all the powers, rights, and conditions which were conferred or imposed upon the dissolved company, and which but for the passing of the amalgamating act might have been exercised by or enforced against the dissolved company.

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CAP. 92.

46. Where the dissolved company has under any special act entered into any contract for the purchase of or taken or used any lands, which at the time of amalgamation have not been effectually conveyed to the dissolved company, or the purchase money in respect of which has not been duly paid by the dissolved company, then and in every such case the contract, if in force at the time of amalgamation, shall thereafter be completed by, and such lands shall be conveyed to the amalgamated company, or as the amalgamated company directs, and the purchase money shall be paid and applied pursuant to the special acts relating to the dissolved company; and those acts shall, in relation to the completion of the contract and the purchase and conveyance of the lands, and the payment and application of the purchase money in respect thereof, be read and construed as if the amalgamated company were the company named in the acts and contract.

Contracts for land entered into by dissolved companies to be executed.

47. Where any money has, before the time of amalgamation, been paid by the dissolved company, or is thereafter paid by the amalgamated company under any special act relating to the dissolved company, into the bank of England, or into one of the incorporated or chartered banks in Scotland, or into the bank of Ireland, or to any trustee or trustees, on account of the purchase of any lands or any interest therein, or for any compensation or satisfaction, or on any other account, such money, or the stocks, funds, or securities in or upon which the same then is or thereafter may be invested by order of any court, or otherwise, and the interest, dividends, and annual produce thereof shall be applied and disposed of pursuant to such special act; and that and every other act shall, in relation to such money, stocks, funds, or securities, or the interest, dividends, or annual produce thereof, be read and construed as if the amalgamated company were the company therein named with reference to the same money, stocks, funds, securities, interest, dividends, or annual produce.

Application of money paid into bank or to trustees.

48. All officers and persons who, at the time of amalgamation, have in their possession or under their control any books, documents, papers or effects belonging to the dissolved company, or to which the dissolved company would but for such dissolution have been entitled, shall

Officers of dissolved companies to be accountable for books, &c.

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CAP. 92.

Officers of
dissolved
companies
to be officers
of amalga-
mated com-
pany.

Books, &c.,
to be evi-
dence.

Resolutions
of dissolved
companies to
remain in
force.

Payment of
calls.

Registers,
books, and
certificates
relating to
dissolved
companies
to subsist
until re-
placed.

be liable to account for and deliver up the same to the amalgamated company, or to such persons as the amalgamated company may appoint to receive the same, in the same manner, and subject to the same consequences on refusal or neglect, as if such officers and persons had been appointed by and become possessed of such books, documents, papers, or effects for the amalgamated company.

49. All clerks, officers, and servants who at the time of amalgamation are in the employment of the dissolved company shall thereupon become clerks, officers, or servants, as the case may be, of the amalgamated company, with the same rights, and subject to the same obligations and incidents in respect of such employment as they would have had or been subject to as the clerks, officers, or servants of the dissolved company, and shall so continue unless and until they respectively are duly removed from such employment by the amalgamated company, or until the terms of their employment are duly altered by the amalgamated company.

50. All books and documents which would have been evidence in respect of any matter for or against the dissolved company, shall be admitted as evidence in respect of the same or the like matter for or against the amalgamated company.

51. All resolutions of any general meeting or board of directors of the dissolved company, or of any duly constituted and authorized committee thereof, so far as the same are applicable and remain in force, shall, notwithstanding the dissolution, continue to be operative, and shall apply to the amalgamated company, and to the directors, officers, and servants of the amalgamated company, until duly revoked or altered by the amalgamated company or under their authority.

52. All calls made by the dissolved company, and not paid at the time of amalgamation, shall be payable to and may be enforced by the amalgamated company, as if such calls had been made by the amalgamated company.

53. All registers of shares, stock, mortgages, and bonds of the dissolved company, and all registers of transfers thereof respectively, and all shareholders and stockholders address books, and all certificates of shares or stock of and in the dissolved company, which are valid and subsisting at the time of amalgamation, shall continue to be valid and subsisting, and shall have the same operation and effect as before the dissolution, unless and until new or altered registers, books, and certificates respectively are substituted in their stead; and all

transfers, sales, or dispositions of stock or shares made before the dissolution and not then completed shall have the same operation and effect as if made after the dissolution.

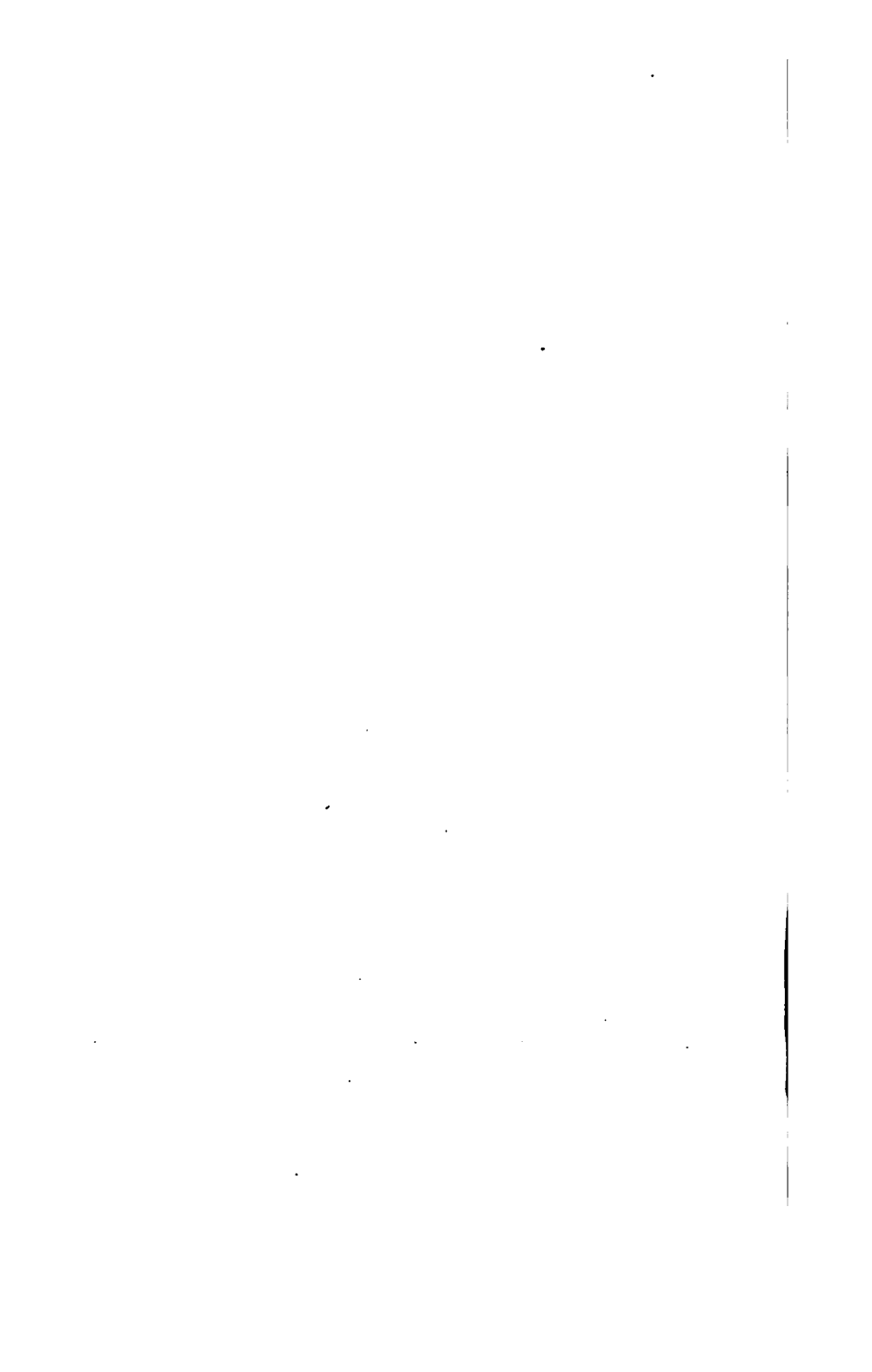
26 & 27 VICT.
CAP. 92.

54. All the byelaws, rules, and regulations of the dissolved company relating to the management, use, or control of their undertaking shall, notwithstanding the dissolution, continue to be in force and applicable to and in respect of the undertaking, and shall and may be enforced by and available to the amalgamated company in their own name, as well for the recovery of penalties as for all other purposes, as if the same respectively had been originally made by the amalgamated company, until the expiration of twelve months after the time of amalgamation, or until other byelaws, rules, and regulations are duly made by the amalgamated company in their stead, whichever first happens.

Byelaws to remain in force.

55. Notwithstanding the dissolution of the dissolved company, and the amalgamation, everything before the time of amalgamation done, suffered, and confirmed respectively, under or by virtue of any special act relating to the dissolved company, shall be as valid as if the amalgamating act had not been passed; and the dissolution and amalgamation, and the amalgamating act, and this part of this act respectively, shall accordingly be subject and without prejudice to everything so done, suffered, and confirmed respectively, and to all rights, liabilities, claims and demands, present or future, which if the dissolution and amalgamation had not taken place, and the amalgamating act had not been passed, would be incident to or consequent on anything so done, suffered, and confirmed respectively; and with respect to all things so done, suffered, and confirmed respectively, and to all such rights, liabilities, claims, and demands, the amalgamated company shall to all intents represent the dissolved company; and the generality of this present provision shall not be deemed to be restricted by any other of the provisions of this part of this act, or by any provision of the amalgamating act that does not expressly refer to this present provision, and expressly restrict the operation thereof.

General saving of rights and claims.



PIER AND HARBOUR ORDERS CONFIRMATION, 1863.

26 & 27 Vict. Cap. 104. An Act for confirming certain Provisional Orders made by the Board of Trade under the General Pier and Harbour Act, 1861, relating to Blackpool, Deal and Walmer, Exmouth, Roseheart, Ilfracombe, Instow, Bangor, Chatham, Bray, Dartmouth, and Nairn, (so far as relates to Railways.)

[28th July, 1863.]

10. DARTMOUTH. Provisional order of the Board of Trade for the improvement, maintenance, and regulation of the harbour of Dartmouth, in the county of Devon.

2. The appointment of the several commissioners shall be regulated as follows:

Appointment of the several commissioners. By Board of Trade.

(1.) The board of trade on, or at any time after, the passing of an act confirming this order, may, if they think fit, appoint three persons to be commissioners, and whenever a vacancy is caused by death, resignation, or otherwise, in the office of any one of those three commissioners, may, if they think fit, appoint another person to fill the vacancy, and so toties quoties:

(2.) The mayor, aldermen, and burgesses of the borough of Dartmouth, acting by the town council of the borough, shall, as soon as may be after the passing of an act confirming this order, appoint two persons to be commissioners, and whenever a vacancy is caused by death, resignation, or otherwise, in the office of either of those two commissioners, shall appoint another person to fill the vacancy, and so toties quoties:

By corporation of Dartmouth.

(3.) The Dartmouth and Torbay railway company shall, as soon as may be after the passing of an act confirming this order, appoint two persons to be commissioners, and whenever a vacancy is caused by death, resignation, or otherwise, in the office of either of those two commissioners, shall appoint another person to fill the vacancy, and so toties quoties:

By Dartmouth and Torbay railway company.

(4.) The following three persons are hereby nominated and appointed to be commissioners, — namely, Charles Seale Hayne, William Froude, and George Knight, and whenever a vacancy is caused by

Special commissioners.

26 & 27 VICT. CAP. 92. thereof, and of the reasons on which that opinion is founded; and if the company does not before the beginning of the then next session of parliament make provision to the satisfaction of the board of trade for protection of the interests of the public, or if the injury done to the interests of the public is in the opinion of the board of trade incapable of being remedied by the company, then the board of trade, at the beginning of the session of parliament then next following, shall report to both houses of parliament such their opinion, and the reasons on which that opinion is founded, and at the expiration of twelve calendar months after the presentation to the houses of parliament of that report, the powers of the company relative to steam vessels, or such of them as are specified in the report, shall, unless parliament in the meantime otherwise provides, cease to be exercised.

PART V.—AMALGAMATION.

Application of Part V. 36. This part of this act shall apply where two or more railway companies, respectively incorporated either before or after the passing of this act, are amalgamated by a special act hereafter passed and incorporating this part of this act.

Definition of cases of amalgamation. 37. For the purposes of this part of this act, companies shall be deemed amalgamated by a special act in either of the following cases:

- (1.) Where by the special act two or more companies are dissolved and the members thereof respectively are united into and incorporated as a new company:
- (2.) Where by the special act a company or companies is or are dissolved, and the undertaking or undertakings of the dissolved company or companies is or are transferred to another existing company, with or without a change in the name of that company.

And in this part of this act such special act is referred to as the amalgamating act; the company incorporated or continued by or under the amalgamating act is referred to as the amalgamated company; and the time prescribed in the amalgamating act for the amalgamation taking effect, and if no time is prescribed, then the time of the passing of the amalgamating act is referred to as the time of amalgamation.

Undertakings of dissolved companies vested in amalgamated company.

38 In every case of amalgamation, the undertaking, railways, harbours, navigations, ferries, wharfs, canals, works, real and personal property, powers, authorities, privileges, exemptions, rights of action and suit, and all other the rights and interests of the dissolved company

shall, subject to the contracts, obligations, debts, and liabilities of that company, become at the time of amalgamation, and by virtue of the amalgamating act, vested in the amalgamated company, and may and shall be held, used, exercised and enjoyed by the amalgamated company in the same manner and to the same extent as the same respectively at the time of amalgamation are, or if the amalgamating act were not passed might be held, used, exercised, and enjoyed by the dissolved company.

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CAP. 92.

39. The special acts relating to or affecting the dissolved company or their undertaking in force at the passing of the amalgamating act, shall, except so far as they are thereby expressed to be varied or repealed, remain in full force; and all rights and powers thereby conferred on and vested in the dissolved company in relation to their undertaking may be enjoyed and exercised by the amalgamated company in relation to the dissolved undertaking; and all matters to be done, continued, or completed, or which but for the amalgamation would, might, or could be done, continued, or completed by the dissolved company, or their directors, officers, or servants, under or by virtue of those acts, shall or may be done, continued or completed by the amalgamated company and their directors, officers, and servants, as the case may be; and every special act, so far as it relates to or affects the dissolved company or their undertaking, shall be read and construed as if the name of the amalgamated company had been used therein in relation to that undertaking instead of the name of the dissolved company.

Acts relating to dissolved companies to apply to amalgamated company.

40. Except as may be otherwise provided in the special act, all debts and money due from or to the dissolved company, or any persons on their behalf, shall be payable and paid by or to the amalgamated company; and all tolls, rates, duties and money due or payable by virtue of any act relating to the dissolved company, from or to that company, shall be due and payable from or to the amalgamated company, and shall be recoverable from or by the amalgamated company by the same ways and means, and subject to the same conditions as the same would or might have been recoverable from or by the dissolved company if the amalgamating act had not been passed.

Saving debts and claims of dissolved companies.

41. All deeds, conveyances, grants, assignments, leases, purchases, sales, mortgages, bonds, covenants, agreements, contracts and securities which before the amalgamation have been executed, made, or entered into by, with, to or in relation to the dissolved company, or the directors thereof, and which are in force at the time of amalgamation, and all obligations and liabilities which

Saving conveyances, contracts, &c.

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CAP. 92.

before the amalgamation have been incurred by or to, or which but for the amalgamation might or would have arisen in relation to the dissolved company or the directors thereof, shall be as valid and of as full force and effect in favour of, against or in relation to the amalgamated company as if the same had been executed, made, or entered into by, with, or to, or in relation to, or had been incurred by or to or had arisen in relation to the amalgamated company by name.

Causes and
rights of
action
reserved.

42. All causes and rights of action or suit accrued before the time of amalgamation, and then in any manner enforceable by, for or against the dissolved company, shall be and remain as good, valid, and effectual for or against the amalgamated company as they would or might have been for or against the dissolved company affected thereby, if the amalgamating act had not been passed.

Actions not
to abate.

43. Nothing in the amalgamating act or in this part of this act shall cause the abatement, discontinuance, or determination of or in anywise prejudicially affect any action, suit, or other proceeding at law or in equity commenced by or against the dissolved company, either solely or jointly with any other company or with any person, before the time of amalgamation, and then pending; but the same may be continued, prosecuted, or enforced by or against the amalgamated company, either solely or, as the case may require, jointly with such other company or with such person; and all persons committing offences against any of the provisions of any special act relating to the dissolved company before the amalgamation may be prosecuted, and all penalties incurred by reason of such offences may be sued for and recovered in like manner in all respects as if the amalgamating act had not been passed,—the amalgamated company being in respect of all such matters considered as identical with the dissolved company.

Saving sub-
missions and
awards re-
lating to
dissolved
companies.

44. No submission to arbitration of any matter in dispute between the dissolved company and any other company or any person, under which any reference is pending and incomplete at the time of amalgamation, and no award theretofore made and then remaining in force, shall be revoked or prejudicially affected by anything in the amalgamating act or in this part of this act contained; but every such submission and award shall be as valid and effectual for or against the amalgamated company as it would have been for or against the dissolved company.

Unexecuted
works of
dissolved
companies
may be com-
pleted.

45. All works which the dissolved company is at the time of amalgamation authorized or bound to execute and complete, and which are not then executed or completed, may or shall (as the case may require) be executed

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or completed by the amalgamated company, and for that purpose the amalgamated company shall have and be subject to all the powers, rights, and conditions which were conferred or imposed upon the dissolved company, and which but for the passing of the amalgamating act might have been exercised by or enforced against the dissolved company.

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46. Where the dissolved company has under any special act entered into any contract for the purchase of or taken or used any lands, which at the time of amalgamation have not been effectually conveyed to the dissolved company, or the purchase money in respect of which has not been duly paid by the dissolved company, then and in every such case the contract, if in force at the time of amalgamation, shall thereafter be completed by, and such lands shall be conveyed to the amalgamated company, or as the amalgamated company directs, and the purchase money shall be paid and applied pursuant to the special acts relating to the dissolved company; and those acts shall, in relation to the completion of the contract and the purchase and conveyance of the lands, and the payment and application of the purchase money in respect thereof, be read and construed as if the amalgamated company were the company named in the acts and contract.

Contracts for land entered into by dissolved companies to be executed.

47. Where any money has, before the time of amalgamation, been paid by the dissolved company, or is thereafter paid by the amalgamated company under any special act relating to the dissolved company, into the bank of England, or into one of the incorporated or chartered banks in Scotland, or into the bank of Ireland, or to any trustee or trustees, on account of the purchase of any lands or any interest therein, or for any compensation or satisfaction, or on any other account, such money, or the stocks, funds, or securities in or upon which the same then is or thereafter may be invested by order of any court, or otherwise, and the interest, dividends, and annual produce thereof shall be applied and disposed of pursuant to such special act; and that and every other act shall, in relation to such money, stocks, funds, or securities, or the interest, dividends, or annual produce thereof, be read and construed as if the amalgamated company were the company therein named with reference to the same money, stocks, funds, securities, interest, dividends, or annual produce.

Application of money paid into bank or to trustees.

48. All officers and persons who, at the time of amalgamation, have in their possession or under their control any books, documents, papers or effects belonging to the dissolved company, or to which the dissolved company would but for such dissolution have been entitled, shall

Officers of dissolved companies to be accountable for books, &c.

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CAP. 92.

be liable to account for and deliver up the same to the amalgamated company, or to such persons as the amalgamated company may appoint to receive the same, in the same manner, and subject to the same consequences on refusal or neglect, as if such officers and persons had been appointed by and become possessed of such books, documents, papers, or effects for the amalgamated company.

Officers of
dissolved
companies
to be officers
of amalga-
mated com-
pany.

49. All clerks, officers, and servants who at the time of amalgamation are in the employment of the dissolved company shall thereupon become clerks, officers, or servants, as the case may be, of the amalgamated company, with the same rights, and subject to the same obligations and incidents in respect of such employment as they would have had or been subject to as the clerks, officers, or servants of the dissolved company, and shall so continue unless and until they respectively are duly removed from such employment by the amalgamated company, or until the terms of their employment are duly altered by the amalgamated company.

Books, &c.,
to be evi-
dence.

50. All books and documents which would have been evidence in respect of any matter for or against the dissolved company, shall be admitted as evidence in respect of the same or the like matter for or against the amalgamated company.

Resolutions
of dissolved
companies to
remain in
force.

51. All resolutions of any general meeting or board of directors of the dissolved company, or of any duly constituted and authorized committee thereof, so far as the same are applicable and remain in force, shall, notwithstanding the dissolution, continue to be operative, and shall apply to the amalgamated company, and to the directors, officers, and servants of the amalgamated company, until duly revoked or altered by the amalgamated company or under their authority.

Payment of
calls.

52. All calls made by the dissolved company, and not paid at the time of amalgamation, shall be payable to and may be enforced by the amalgamated company, as if such calls had been made by the amalgamated company.

Registers,
books, and
certificates
relating to
dissolved
companies
to subsist
until re-
placed.

53. All registers of shares, stock, mortgages, and bonds of the dissolved company, and all registers of transfers thereof respectively, and all shareholders and stockholders address books, and all certificates of shares or stock of and in the dissolved company, which are valid and subsisting at the time of amalgamation, shall continue to be valid and subsisting, and shall have the same operation and effect as before the dissolution, unless and until new or altered registers, books, and certificates respectively are substituted in their stead; and all

transfers, sales, or dispositions of stock or shares made before the dissolution and not then completed shall have the same operation and effect as if made after the dissolution.

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CAP. 92.

54. All the byelaws, rules, and regulations of the dissolved company relating to the management, use, or control of their undertaking shall, notwithstanding the dissolution, continue to be in force and applicable to and in respect of the undertaking, and shall and may be enforced by and available to the amalgamated company in their own name, as well for the recovery of penalties as for all other purposes, as if the same respectively had been originally made by the amalgamated company, until the expiration of twelve months after the time of amalgamation, or until other byelaws, rules, and regulations are duly made by the amalgamated company in their stead, whichever first happens.

Byelaws to
remain in
force.

55. Notwithstanding the dissolution of the dissolved company, and the amalgamation, everything before the time of amalgamation done, suffered, and confirmed respectively, under or by virtue of any special act relating to the dissolved company, shall be as valid as if the amalgamating act had not been passed; and the dissolution and amalgamation, and the amalgamating act, and this part of this act respectively, shall accordingly be subject and without prejudice to everything so done, suffered, and confirmed respectively, and to all rights, liabilities, claims and demands, present or future, which if the dissolution and amalgamation had not taken place, and the amalgamating act had not been passed, would be incident to or consequent on anything so done, suffered, and confirmed respectively; and with respect to all things so done, suffered, and confirmed respectively, and to all such rights, liabilities, claims, and demands, the amalgamated company shall to all intents represent the dissolved company; and the generality of this present provision shall not be deemed to be restricted by any other of the provisions of this part of this act, or by any provision of the amalgamating act that does not expressly refer to this present provision, and expressly restrict the operation thereof.

General
saving of
rights and
claims.

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Power to
company to
cancel
forfeited
shares.

Evidence for
cancellation
of forfeited
shares.

Payment of
calls in ar-
rear not-
withstand-
ing cancel-
lation.

Value of
forfeited
shares to be
deducted
from amount
due in res-
pect thereof.

incorporated either before or after the passing of this act which obtains a special act incorporating this part of this act.

4. Where any share of the capital of the company is after the passing of this act declared forfeited under and in pursuance of the provisions with respect to the forfeiture of shares for nonpayment of calls contained in The Companies Clauses Consolidation Act, 1845, and The Companies Clauses Consolidation (Scotland) Act, 1845, respectively, and the forfeiture is confirmed by a meeting in accordance with the same provisions respectively, and notice of the forfeiture has been given,—then and in every such case, if the directors of the company are unable to sell the share for a sum equal to the arrears of calls and interest and expenses due in respect thereof, the company at any general meeting held not less than two months after such notice is given may, in case payment of the arrears of calls, interest, and expenses due in respect thereof is not made by the registered holder of the share before the meeting is held, resolve that the share instead of being sold shall be cancelled, and the share shall thereupon be cancelled accordingly.

5. A declaration in writing made by some credible person, in England or Ireland before a justice, and in Scotland before any sheriff or justice, stating that a sum of money sufficient to pay the arrears of calls, interest, and expenses due in respect of the share, could not at the time of the cancellation of the share be obtained for the same upon the stock exchange prescribed in the special act, and if no stock exchange is prescribed then upon the stock exchange, as to England, of the city of London, and as to Scotland of the city of Edinburgh, and as to Ireland of the city of Dublin, shall be sufficient evidence of the fact so declared.

6. Where it is so resolved that any share shall be cancelled, the holder thereof shall from and after the passing of the resolution be precluded from all right and interest therein and in respect thereof; but the cancellation shall not affect the liability of the last registered holder of the share to pay to the company all arrears of calls, interest, and expenses due in respect of the share at the time of the cancellation, or the power of the company to enforce payment thereof by action or otherwise.

7. Provided always, That if the company enforces the payment of the arrears of calls, interest, and expenses under the last preceding provision, the value of the share at the time of the cancellation thereof shall be deducted from the amount so then due; provided also that if payment of all arrears of calls, interest, and expenses is made

before such meeting as aforesaid is held the share shall revert to the person to whom it belonged at the time of forfeiture, and shall be re-entered on the company's register accordingly.

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8. Where any share is declared forfeited, or where any sum payable on any share remains unpaid, the company, with the consent in writing of the registered holder of the share, and with the sanction of a general meeting, may resolve that the share shall be cancelled, and immediately thereupon the share shall be cancelled, and all liabilities and rights with respect to the share shall thereupon be absolutely extinguished.

Company may cancel forfeited shares with consent of holders.

9. The company may from time to time accept, on such terms as they think fit, surrenders of any shares which have not been fully paid up.

As to surrender of shares.

10. The company shall not pay or refund to any shareholder any sum of money for or in respect of the cancellation or surrender of any share.

No money to be paid for cancellation or surrender.

11. The company may from time to time, in lieu of any shares that have been cancelled or surrendered, issue new shares of such amounts as will allow the same to be conveniently apportioned or disposed of according to the resolution of any ordinary or extraordinary meeting of the company, and may from time to time fix the amounts and times of payment of the calls on any such new shares, and dispose thereof on such terms and conditions as may be so resolved upon: Provided, that the aggregate nominal amount of the new shares shall not exceed the aggregate nominal amount of the shares in lieu of which the new shares are issued, after deducting the amount actually paid up in respect of the shares cancelled or surrendered.

Power to create shares in lieu of cancelled, forfeited, &c. shares.

PART II.—ADDITIONAL CAPITAL.

New ordinary shares or stock.

12. Where any company, incorporated either before or after the passing of this act for the purpose of carrying on any undertaking, is authorized by any special act hereafter passed, and incorporating this part of this act, to raise any additional sum or sums by the issue of new ordinary shares, or by the issue of new ordinary stock, or (at the option of the company) by either of those modes,—then and in every such case the company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a meeting of the company specially convened for the purpose, as is prescribed in the special act, and if no proportion is prescribed, then of three fifths of such votes, may, for the purpose of raising the additional

Regulations as to creation and issue of ordinary shares or new ordinary stock.

26 & 27 VICT. CAP. 118. sum or sums, from time to time create and issue (according as the authority given by the special act extends to shares only, or to stock only, or to both) such new ordinary shares, of such nominal amount, and subject to the payment of calls of such amounts and at such times, as the company thinks fit, or such new ordinary stock as the company thinks fit.

Preference shares or stock.

Regulations as to creation and issue of new preference shares or new preference stock.

13. Where any such company is authorized by any special act hereafter passed and incorporating this part of this act to raise any additional sum or sums by the issue of new preference shares, or by the issue of new preference stock, or (at the option of the company) by either of those modes,—then and in every such case the company, with the like sanction as aforesaid, may for the purpose of raising such additional sum or sums from time to time create and issue (according as the authority given by the special act extends to shares only, or to stock only, or to both) such new shares or new stock, either ordinary or preference, and either of one class and with like privileges, or of several classes and with different privileges, and of the same or different amounts, and respectively with any fixed, fluctuating, contingent, preferential, perpetual, terminable, deferred, or other dividend or interest, not exceeding the rate prescribed in the special act, and if no rate is prescribed then not exceeding the rate of five pounds per centum per annum, and subject (as to any such new shares) to the payment of calls of such amounts and at such times, as the company from time to time thinks fit:

Saving rights of preference shareholders.

Provided always, that any preference assigned to any shares or stock so issued under the special act shall not affect any guarantee, or any preference or priority in the payment of dividend or interest, on any shares or stock, that may have been granted by the company under or confirmed by any previous act, or that may be otherwise lawfully subsisting.

Preference shares to be entitled to dividends only out of the profits of each year.

14. The preference shares or preference stock so issued shall be entitled to the preferential dividend or interest assigned thereto, out of the profits of each year, in priority to the ordinary shares and ordinary stock of the company; but if in any year ending on the day prescribed in the special act, and if no day is prescribed, then on the thirty-first day of December, there are not profits available for the payment of the full amount of preferential dividend or interest for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the company.

15. The terms and conditions to which any preference share or preference stock is subject shall be clearly stated on the certificate of that preference share or portion of preference stock.

General provisions as to new shares or stock.

16. If, after having created new shares or new stock, the company determines not to issue the whole of the new shares or new stock, they may cancel the unissued new shares or new stock.

17. If, at the time of the issue of new shares or new stock, the ordinary shares or ordinary stock of the company are or is at a premium, then, unless the company before the issue of the new shares or new stock otherwise determines, the new shares or new stock then issued shall be of such amount as will conveniently allow the same to be apportioned among the then holders of the ordinary stock and ordinary shares, respectively, in proportion, as nearly as conveniently may be, to the ordinary shares and ordinary stock held by them respectively, and shall be offered to them at par in that proportion: Provided, that it shall not be obligatory on the company so to apportion or offer any new shares or new stock unless the amount of every new share or portion of new stock to be so offered would if so apportioned be at least the sum prescribed in the special act, and if no sum is prescribed then at least ten pounds.

18. The offer of new shares or new stock shall be made by letter under the hand of the treasurer or secretary of the company given to every such shareholder or stockholder as aforesaid, or sent by post addressed to him according to his address in the shareholders or stockholders address book, or left for him at his usual or then last known place of abode in England, Scotland, or Ireland (as the case may require); and every such offer made by letter sent by post shall be considered as made on the day on which the letter in due course of delivery ought to be delivered at the place to which it is addressed.

19. The new shares or portions of new stock so offered shall vest in and belong to the shareholders or stockholders who accept the same or their nominees.

20. If any shareholder or stockholder fails for the time prescribed in the special act, and if no time is prescribed then for one month, after the offer to him of new shares or new stock, to signify his acceptance of the same or any part thereof, then and in every such case at the expiration of that period he shall be deemed to have declined the offer of such new shares or new stock or such part thereof as aforesaid, and the same may be disposed of by the company as herein-after provided:

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Terms, &c.
to be stated
on certifi-
cates.

Unissued
shares and
stock may
be cancelled.

If ordinary
stock or
shares at a
premium,
new shares
or stock to
be offered to
existing
ordinary
share-
holders.

Offer to be
made by
letter.

New shares
or stock to
vest on ac-
ceptance.

As to dis-
posal of new
shares or
stock to
others.

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Power to
enlarge time
for accepting
new shares
or stock.

General
power to dis-
pose of un-
appropria-
ted new
shares and
stock.

Provided, that where a shareholder or stockholder, from absence abroad or other cause satisfactory to the directors of the company, omits to signify within the time aforesaid his acceptance of the new shares or new stock offered to him, the directors, if they think proper, may permit him to accept the same, notwithstanding that such time has elapsed.

21. Subject to the foregoing provisions, the company may from time to time dispose of new shares and new stock at such times, to such persons, on such terms and conditions, and in such manner, as the directors think advantageous to the company, but so that not less than the full nominal amount of any share or portion of stock be payable or paid in respect thereof.

PART III.—DEBENTURE STOCK.

Regulations
as to crea-
tion and is-
sue of deben-
ture stock.

22. Where any company, incorporated either before or after the passing of this act for the purpose of carrying on any undertaking, is authorized by any special act hereafter passed, and incorporating this part of this act, to create and issue debenture stock,—then and in every such case the company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a meeting of the company specially convened for the purpose, as is prescribed in the special act, and if no proportion is prescribed, then of three fifths of such votes, may from time to time raise all or any part of the money which for the time being they have raised, or are authorized to raise, on mortgage or bond, by the creation and issue, at such times, in such amounts and manner, on such terms, subject to such conditions, and with such rights and privileges, as the company thinks fit, of stock to be called debenture stock, instead of and to the same amount as the whole or any part of the money which may for the time being be owing by the company on mortgage or bond, or which they may from time to time have power to raise on mortgage or bond, and may attach to the stock so created such fixed and perpetual preferential interest not exceeding the rate prescribed in the special act, and if no rate is prescribed, then not exceeding the rate of four pounds per centum per annum, payable half-yearly or otherwise, and commencing at once, or at any future time or times, when and as the debenture stock is issued, or otherwise, as the company thinks fit.

Debenture
stock to be

23. Debenture stock, with the interest thereon, shall be a charge upon the undertaking of the company, prior

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to all shares or stock of the company, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the company, and shall in all other respects have the incidents of personal estate. 26 & 27 VICT.
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a prior charge.

24. The interest on debenture stock shall have priority of payment over all dividends or interest on any shares or stock of the company, whether ordinary or preference or guaranteed, and shall rank next to the interest payable on the mortgages or bonds for the time being of the company legally granted before the creation of such stock; but the holders of debenture stock shall not, as among themselves, be entitled to any preference or priority. Interest on
debenture
stock to be
a primary
charge.

25. If within thirty days after the interest on any such debenture stock is payable the same is not paid, any one or more of the holders of the debenture stock holding, individually or collectively, the sum in nominal amount thereof prescribed in the special act, and if no sum is prescribed, then a sum equal to one tenth of the aggregate amount which the company is for the time being authorized to raise by mortgage, by bond, and by debenture stock, or the sum of ten thousand pounds, whichever of the two last-mentioned sums is the smaller sum, may (without prejudice to the right to sue in any court of competent jurisdiction for the interest in arrear) require the appointment in England or Ireland of a receiver, and in Scotland of a judicial factor. Payment of
arrears may
be enforced
by appoint-
ment of re-
ceiver or
judicial
factor.

26. Every such application for a receiver shall be made to two justices, and every such application for a judicial factor shall be made to the court of session; and on any such application the justices or court (as the case may be), by order in writing, after hearing the parties, may appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of the interest, until all the arrears of interest then due on the debenture stock, with all costs, including the charges of receiving the tolls or sums, are fully paid; and upon such appointment being made all such tolls or sums shall be paid to and received by the person so appointed; and all money so received shall be deemed so much money received by or to the use of the several persons interested in the same, according to their several priorities. Mode of ap-
pointing
receiver or
judicial
factor.

The receiver or judicial factor shall distribute rateably and without priority, among all the proprietors of debenture stock to whom interest is in arrear, the money which so comes to his hands, after applying a sufficient part thereof in or towards satisfaction of the interest on the mortgages and bonds of the company.

As soon as the full amount of interest and costs has
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Arrears may
be recovered
by action or
suit.

Debenture
stock to be
registered.

Company to
deliver cer-
tificate to
holders of
debenture
stock.

Mortgages
not affected
by this act.

Holders of
debenture
stock not to
vote.

Application

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been so received, the power of the receiver or judicial factor shall cease, and he shall be bound to account to the company for his acts or intromissions or the sums received by him, and to pay over to the company any balance that may be in his hands.

27. If the interest on debenture stock is in arrear for thirty days next after any of the respective days whereon the same is payable, the holder for the time being thereof may (without prejudice to his power to apply for the appointment of a receiver or judicial factor) recover the arrears with costs by action or suit against the company in any court of competent jurisdiction.

28. The company shall cause entries of the debenture stock from time to time created to be made in a register to be kept for that purpose, wherein they shall enter the names and addresses of the several persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled; and the register shall be accessible for inspection and perusal at all reasonable times to every mortgagee, bondholder, debenture stock holder, shareholder, and stockholder of the company, without the payment of any fee or charge.

29. The company shall deliver to every holder of debenture stock a certificate stating the amount of debenture stock held by him; and all regulations or provisions for the time being applicable to certificates of shares in the capital of the company shall apply, mutatis mutandis, to certificates of debenture stock.

30. Nothing herein or in the special act authorizing the issue of debenture stock contained shall in any way affect any mortgage or bond at any time legally granted by the company before the creation of such stock, or any power of the company to raise money on mortgage or bond, but the holders of all such mortgages and bonds shall, during the continuance thereof respectively, be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if the special act authorizing the issue of debenture stock had not been passed.

31. Debenture stock shall not entitle the holders thereof to be present or vote at any meeting of the company, or confer any qualification, but shall, in all respects not otherwise by or under this act or the special act provided for, be considered as entitling the holders to the rights and powers of mortgagees of the undertaking other than the right to require repayment of the principal money paid up in respect of the debenture stock.

32. Money raised by debenture stock shall be applied

exclusively either in paying off money due by the company on mortgage or bond, or else for the purposes to which the same money would be applicable if it were raised on mortgage or bond instead of on debenture stock.

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of money raised.

Separate accounts of debenture stock.

33. Separate and distinct accounts shall be kept by the company, showing how much money has been received for or on account of debenture stock, and how much money borrowed or owing on mortgage or bond, or which they have power so to borrow, has been paid off by debenture stock, or raised thereby, instead of being borrowed on mortgage or bond.

34. The powers of borrowing and re-borrowing by the company shall, to the extent of the money raised by the issue of debenture stock, be extinguished.

Borrowing powers extinguished to extent of debenture stock.

35. The provisions of this part of this act shall be deemed to apply to mortgage preference stock, and to funded debt, as the case may require, in all respects as if mortgage preference stock or funded debt were mentioned throughout this part of this act wherever debenture stock is mentioned therein.

Application of Part III. to mortgage preference stock, and funded debt.

PART IV.—CHANGE OF NAME.

36. Where by any special act hereafter passed and incorporating this part of this act the name of any company incorporated either before or after the passing of this act for the purpose of carrying on any undertaking is changed,—then and in every such case from the passing of the special act the company by their new name shall have and may exercise the powers then vested in the company by their original name; and all acts relating to the company by their original name shall be read and interpreted as if throughout those acts, wherever the original name of the company or any reference to the company by their original name occurs, the new name of the company or a reference to the company by their new name were substituted.

Continuance of powers.

37. No action, suit, bill, process, writ, indictment, information, or other proceeding, whether civil or criminal, which at or immediately before the passing of the special act is commenced and is then pending,—either at the suit or instance of the company, by their original name, against any other corporation or any person, or at the suit or instance of any other corporation or any person against the company, by their original name,—shall abate, determine, or be otherwise impeached or affected for or by reason of the change of the name of the company; nor shall any notice, tender, requisition, warrant, summons, pleading, civil or criminal writ or other process, record, deed, contract, agreement, writing, or instrument then or thereafter to be made, issued, written,

Actions &c. not to abate.

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or commenced, be deemed to be vacated, discharged, invalidated, prejudiced, or affected by reason of the company or their undertaking being therein respectively called by the original name of the company or undertaking; and it shall not be necessary in any bill, suit, indictment, information, proceeding, notice, tender, requisition, warrant, summons, pleading, civil or criminal writ, or other process, or in any record, deed, contract, agreement, writing, or other instrument or matter, to aver that the company had been called or known for any period by the original name of the company, or that their undertaking had been called or known within that period by the original name of the undertaking, and that by the special act effecting the change the names of the company and their undertaking were changed, and that after the passing of that special act the company had been called or known by their new name and their undertaking by its new name; but it shall be deemed true, lawful, and sufficient therein to aver the style and describe the company by their new name, and their undertaking by its new name, in the same manner as if the company had been originally incorporated, called, or known by their new name, and as if their undertaking had been originally called or known by its new name.

General
saving of
rights.

38. Notwithstanding the change of the name of the company, everything before the passing of the special act effecting the change done, suffered, or confirmed under or by virtue of any other act shall be as valid as if the special act effecting the change were not passed; and the change of name and last-mentioned special act respectively shall accordingly be subject and without prejudice to everything so done, suffered, or confirmed before the passing of the last-mentioned special act, and to all rights, liabilities, claims, and demands, then present or future, which, if the change of name had not happened and such last-mentioned special act had not been passed, would be incident to or consequent on anything so done, suffered, or confirmed.

Contracts,
&c. pre-
served.

39. Notwithstanding the change of the name of the company, all deeds, instruments, purchases, sales, securities, and contracts before the passing of the special act effecting the change made under any other act, or with reference to the purposes thereof, shall be as effectual to all intents in favour of, against, and with respect to the company as if the name of the company had remained unchanged.

UNION ASSESSMENT COMMITTEE AMEND- MENT, 1864.

27 & 28 Vict. Cap. 39. An Act to amend the Union Assessment Committee Act (1862) (so far as relates to Railways). [14th July, 1864.]

WHEREAS it is expedient to amend the Union Assessment Committee Act, 1862, in regard to Appeals against Poor Rates, and to make further provisions for securing correct and uniform valuations of the property liable to be assessed to the relief of the poor: be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same :

25 & 26 Vict.
c. 103.

5. Within fourteen days after the transmission to the assessment committee of any valuation or supplemental valuation list, the committee shall give notice to every railway, telegraph, canal, gas, and water company named in such list as the occupier of any property included therein, and not having any office or place of business in the parish to which such list relates, of the sum or sums set down as the rateable value of the property purporting to be occupied by such company or companies, and such notice may be served by being transmitted through the post to the principal office of the company, or one of their principal offices when there shall be more than one.

Notice of
Assessment
to be given
to railway
companies,
&c.

PUBLIC HOUSE CLOSING, 1864.

27 & 28 Vict. Cap. 64. An Act for further regulating the closing of Public Houses and Refreshment Houses within the Metropolitan Police District, the City of London, certain Corporate Boroughs, and other places (so far as relates to Railways). [25th July, 1864.]

Exemption
of railway
stations.

10. Nothing herein contained shall apply to the sale at a railway station, between the hours of one and four o'clock in the morning, of exciseable liquors or refreshments to persons arriving at or departing from such station by railroad.

RAILWAYS (IRELAND), 1864.

27 & 28 Vict. Cap. 71. An Act for amending and extending the Railways, Ireland, Act, 1851, and the Railways, Ireland, Act, 1860.

[25th July, 1864.]

WHEREAS it is expedient that the "Railways Act, Ireland, 1851," and the "Railways Act, Ireland, 1860," should be amended, and the provisions thereof extended, as hereinafter mentioned: be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

14 & 15 Vict.
c. 70.
23 & 24 Vict.
c. 97.

1. In all cases where the amount of money which the arbitrator appointed under the provisions of the said acts, or either of them, shall have awarded to be paid by the company to any person in respect of any estate or interest in lands shall exceed the sum of five hundred pounds it shall be lawful for the company, if dissatisfied with such award, upon giving to such person within ten days next after the date of such award notice in writing of their intention to appeal therefrom, to have a traverse entered by the company in the crown book in respect of such award, at the same time and in like manner in all respects as are provided by the aforesaid acts with respect to traverses taken by persons dissatisfied with any award, and the like proceedings shall be taken with respect to a traverse so taken by the company, and the verdict of the jury upon such traverse shall have the like effect as in the case of a traverse taken by a person so dissatisfied: provided always, that in all cases where a traverse shall be so taken by the company, if the verdict of the jury shall be for a sum less than that awarded by the arbitrator, the company shall nevertheless pay to the other party to such traverse such sum not exceeding twenty pounds for the costs of such traverse as the judge before whom the same is tried shall direct: and in case the verdict of the jury shall be for a sum equal to or exceeding the award of the arbitrator, then and in that case the company shall pay to the other party the costs of the traverse, such costs to be taxed and ascertained in the same manner as costs are by law ascertained on the trial of an issue from the Court of Queen's Bench.

The Company, if dissatisfied with award, in cases exceeding 500*l.*, may traverse.

27 & 28 VICT. c. 71. i.

27 & 28 VICT. CAP. 71. to the purchase money or compensation ascertained as aforesaid by the arbitrator in respect of lands so temporarily occupied as aforesaid.

Taxation
of costs.

12. In all cases where costs of conveyances shall be payable by the company such costs shall be taxed by one of the taxing masters of the court of chancery in Ireland, upon the requisition of such company; and all the provisions of any act of parliament, and all rules and regulations of the courts of law and equity in Ireland relating to the taxation of costs shall be deemed applicable to such costs so payable by the company in like manner in all respects as if the said company were directly chargeable therewith.

Construc-
tion of term
"company."

13. In the construction of the Railways Act (Ireland) 1851, and of the Railways Act (Ireland) 1860, and of this act, the expression "company" shall include and parties, whether company, undertakers, commissioners, drainage board, corporation, or private persons, empowered to execute any work or undertaking, and to take or use any lands, mills, or other hereditaments compulsorily under the provisions of any general or special act of Parliament, already or hereafter incorporating the said recited acts and this act or any of such acts.

As to pay-
ment to
occupant of
land of value
of crops
thereon.

14. When any railway company shall not take possession of or pay for any land within one fortnight from the lodgement of the final award of the arbitrator with the clerk of the peace, the said company shall, before taking possession of the same, in addition to the sum awarded by the arbitrator, pay to the occupant of any land to be taken the value of any crop existing upon or in the land at the time of taking possession of same, and which has not been included in said award, such value to be determined by any three justices of the petty sessions district in which such lands may be situated, one to be named by the railway company, one by the occupant of such land, and the third by the two justices so named.

Within five
years after
the opening
of a railway,
the company
may be
called upon
to make
certain
accommoda-
tion works,
and, if so,
the matter
shall be re-
ferred to an
arbitrator.

15. Every railway company in Ireland shall cause proper fences to be made and maintained for separating the land taken for the use of the railway from the adjoining lands not taken, and shall also provide and maintain proper drains or other passages either over or under or by the sides of the railway to convey water from or to the lands lying near or affected by the railway, in the same manner and to the same extent as it was conveyed from or to the said lands before the making of the railway, or as near thereto as the case may be; and in case any owner or occupier of such land shall complain of the want of or insufficiency of any such fences, drains, or passages, it shall be lawful for such owner or occupier,

27 & 28 VICT. c. 71. iv.

within five years after the completion of the works of any railway and the opening of the railway for public use, to present a memorial to the commissioners of public works in Ireland stating the ground of his complaint, and thereupon the commissioners shall inquire into the matter of such complaint, and, if they shall so think fit, the said commissioners shall appoint an arbitrator to hear and determine the matter of the said complaint.

27 & 28 Vict.
CAP. 71.

16. The arbitrator so appointed shall have and exercise all the powers vested in any arbitrator appointed under the "Railways (Ireland) Acts, 1851 and 1860," and shall proceed to investigate the said complaint at some convenient place to be named by the said commissioners of public works, after giving ten days notice of the time and place of meeting to the memorialists and to the railway company, and his award may be traversed in the same manner as any award made by an arbitrator appointed under the "Railways (Ireland) Acts, 1851 and 1860," and if not traversed shall be final; and the costs of the said arbitration and of the said arbitrator shall be paid in the same manner as the costs of an arbitration or arbitrator under the "Railways (Ireland) Acts, 1851 and 1860."

Arbitrator shall have all the powers of an arbitrator appointed under 14 & 15 Vict. c. 70, and 23 & 24 Vict. c. 97.

17. The company shall make all such fences, drains, and passages as by the award of the said arbitrator they shall be directed to make; but no company shall be required to make the same in such a manner as will prevent or obstruct the working or using of the railway, nor shall they be required to make any fence, drain or passage in respect of which the owner and occupier, or any former owner and occupier, shall have agreed to receive and shall have been paid compensation in lieu of the making of the works themselves.

The company shall obey the award of the arbitrator, except in certain cases.

18. The Railways Act (Ireland) 1851, and the Railways Act (Ireland) 1860, and this Act, shall be construed together as one act; and this act, together with the said acts, shall be held to be incorporated with those acts in any act already or hereafter incorporating those acts or any of them.

This act and 14 & 15 Vict. c. 70, and 23 & 24 Vict. c. 97, to be read together.

19. This act may be cited as the Railways Act (Ireland), 1864.

Short title.

PIER AND HARBOUR ORDERS CONFIRMATION, 1864.

27 & 28 Vict. Cap. 93. An Act for confirming certain Provisional Orders made by the Board of Trade under The General Pier and Harbour Act, 1861, relating to Brighton, Eastbourne, Sandown, Walton-on-the-Naze, Clevedon, Rhyll, Bray, Kircubbin, Walton (Suffolk), Holywood, Exe Bight, Lytham, Ardglass, Filey, Greenock, Carlingford Lough, Wexford, Torquay, and Oban (so far as relates to Railways).

[29th July, 1864.]

Amendment
of order as
to Carling-
ford Lough.

8. With regard to the Carlingford Lough provisional order, the clauses numbered 3 and 13 of that order shall be deemed to be and the same are by this act expunged from the same order.

The clause following shall be inserted in the same order instead of clause 3 thereof.

The appointment of the commissioners shall be regulated as follows :

Appoint-
ment of the
several com-
missioners.

(1.) The following four persons are hereby appointed commissioners, namely, William Forster, Richard Allen Minnitt, Edward Tipping, and Richard Mayne; and whenever a vacancy is caused by death, resignation, or otherwise, in the office of any one of those four commissioners, the commissioners shall by a special order appoint another person to fill the vacancy, and so toties quoties :

By Newry
navigation
company.

(2.) Two of the commissioners shall be appointed by the Newry navigation company; and whenever a vacancy is caused by death, resignation, or otherwise in the office of either of those two commissioners, another person shall be appointed by that company to fill the vacancy, and so toties quoties :

By Newry
town com-
missioners.

(3.) Two of the commissioners shall be appointed by the Newry town commissioners; and whenever a vacancy is caused by death, resignation or otherwise in the office of either of those two commissioners, another person shall be appointed by the Newry town commissioners to fill the vacancy, and so toties quoties :

By Newry
and Green-
ore railway
company. :

(4.) Two of the commissioners shall be appointed by the Newry and Greenore railway company; and whenever a vacancy is caused by death,

27 & 28 VICT. C. 93. i.

resignation, or otherwise in the office of either of those two commissioners, another person shall be appointed by that company to fill the vacancy, and so toties quoties :

27 & 28 VICT.
CAP. 93.

- (5.) Two of the commissioners shall be appointed by the Dundalk and Greenore railway company; and whenever a vacancy is caused by death, resignation or otherwise in the office of either of those two commissioners, another person shall be appointed by that company to fill the vacancy, and so toties quoties :
- (6.) The board of trade may, if they think fit, at any time after the passing of an act confirming this order, appoint two persons to be commissioners; and whenever a vacancy is caused by death, resignation, or otherwise in the office of any one of those two commissioners, may, if they think fit, appoint another person to fill the vacancy, and so toties quoties.

By Dundalk
and Green-
ore railway
company.

By board of
trade.

Schedule 11. EXE BIGHT. Provisional order of the Board of Trade, for the construction, maintenance, and regulation of a pier in the Exe Bight in the Harbour of the River Exe in the county of Devon.

17. The undertakers may at any time, by deed, transfer or lease to the South Devon Railway Company, their lessees or assigns, or to any other company or corporation, their lessees or assigns, if and when the said railway company, their lessees or assigns, or any other company or corporation, their lessees or assigns, are lawfully empowered to take or transfer or lease under the present provision, or to any person, or persons, all or any part of the works herein specified, and the right to receive all or any part of the rates authorized by this order, but so that any deed or transfer, or lease, under this provision shall not have any effect unless it is made with the approval of the board of trade, testified in writing signed by a secretary of the board.

Power to
transfer to
South Devon
railway
company.

Schedule 16. CARLINGFORD LOUGH. Provisional order of the Board of Trade for the Improvement and regulation of the Harbour of Carlingford Lough in Ireland.

27. Nothing in this order contained shall take away, alter, lessen, or prejudice any of the respective rights, privileges, powers, or authorities vested in or enjoyed by the Newry navigation company, the Newry and Greenore railway company, and the Dundalk and Greenore railway company, or any or either of them.

Saving
rights of
navigation
company
and of
railway
companies.

ACCIDENTS COMPENSATION ACT AMEND- MENT, 1864.

27 & 28 Vict. Cap. 95. An Act to amend the Act Ninth and Tenth Victoria, Chapter Ninety-three, for compensating the Families of Persons killed by Accident. [29th July, 1864.]

9 & 10 Vict. c. 93. WHEREAS by an act passed in the session of Parliament holden in the ninth and tenth years of her Majesty's reign, intituled "An Act for compensating the Families of Persons killed by Accident," it is amongst other things provided, that every such action as therein mentioned shall be for the benefit of the wife, husband, parent, and child of the person whose death shall have been so caused as therein mentioned, and shall be brought by and in the name of the executor or administrator of the person deceased: and whereas it may happen by reason of the inability or default of any person to obtain probate of the will or letters of administration of the personal estate and effects of the person deceased, or by reason of the unwillingness or neglect of the executor or administrator of the person deceased to bring such action as aforesaid, that the person or persons entitled to the benefit of the said act may be deprived thereof; and it is expedient to amend and extend the said act as herein-after mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Where no action brought within six months by executor of person killed, then action may be brought by persons beneficially interested in result of action.

1. If and so often as it shall happen at any time or times hereafter in any of the cases intended and provided for by the said act that there shall be no executor or administrator of the person deceased, or that there being such executor or administrator no such action as in the said act mentioned shall within six calendar months after the death of such deceased person as therein mentioned have been brought by and in the name of his or her executor or administrator, then and in every such case such action may be brought by and in the name or names of all or any of the persons (if

27 & 28 VICT. c. 95. j.

more than one) for whose benefit such action would have been, if it had been brought by and in the name of such executor or administrator; and every action so to be brought shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure as nearly as may be, as if it were brought by and in the name of such executor or administrator.

27 & 28 VICT.
CAP. 95.

2. And whereas by the second section of the said act it is provided that the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and whose benefit such action shall be brought, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided between the before-mentioned parties in such shares as the jury shall by their verdict direct: be it enacted and declared, That it shall be sufficient, if the defendant is advised to pay money into court, that he pay it as a compensation in one sum to all persons entitled under the said act for his wrongful act, neglect, or default, without specifying the shares into which it is to be divided by the jury; and if the said sum be not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the jury shall think the same sufficient, the defendant shall be entitled to the verdict upon that issue.

Money paid into court may be paid in one sum, without regard to its division into shares.

If not accepted, defendant entitled to verdict on the issue.

3. This act and the said act shall be read together as one act.

This and recited act to be read as one.

IMPROVEMENT OF LAND, 1864.

27 & 28 Vict. Cap. 114. The Improvement of Land Act, 1864 (so far as relates to Railways).
[29th July, 1864.]

Preamble. WHEREAS an act was passed in the twelfth and thirteenth years of her present majesty, intituled "An Act to promote the Advance of private Money for Drainage of Lands in Great Britain and Ireland," and several companies have been incorporated by act of parliament, with special powers for promoting the improvement of land in Great Britain and Ireland by drainage and otherwise; and it is desirable to amend and consolidate the law relating to the improvement of land by owners of limited interests, and to enable such owners to charge their lands with money subscribed for the construction of railways and navigable canals which will permanently increase the value of such lands: Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

12 & 13 Vict.
c. 100.

Charge of
lands with
money sub-
scribed for
construction
of railways.

Recited act
12 & 13 Vict.
c. 100, re-
pealed.

1. The act first above mentioned, being "The Private Money Drainage Act, 1849," is hereby repealed, except so far as relates to any proceedings on applications pending under the said act at the date of the passing hereof, it being the intention hereof that all such proceedings shall be worked out under the said act, and that all charges to be made in consequence of any such proceedings shall be made and operate under the said act, which shall apply thereto as if this act had never been passed: Provided also, that nothing herein contained shall affect any charge made under the said act before the passing hereof, or any right or obligation existing or which may arise in respect of any such charge.

Commission-
ers, Land-
owners, &c.

And with regard to the commissioners for the execution of this act, and other general matters, be it enacted as follows:

Interpreta-
tion of "the
commis-
sioners."

2. By "the commissioners" shall herein be meant, as regards lands in Great Britain, the inclosure commissioners for England and Wales, and as regards lands in Ireland, the commissioners of public works in Ireland under an act of the first and second years of his late majesty king William the fourth, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," and an act of the fifth and sixth years of the reign of her present majesty, intituled "An Act to promote Drain-

1 & 2 W. 4,
c. 83.

5 & 6 Vict.
c. 89.

27 & 28 Vict. c. 114, i.

age of Lands, and Improvement of Navigation and Water Power in connexion with Drainage, in Ireland," and the several acts amending the same respectively. 27 & 28 Vict. CAP. 114.

3. All the provisions of the act of the ninth and tenth years of the reign of her present majesty, intituled "An Act to authorize the Advance of Public Money to a limited Amount to promote the Improvement of Land in Great Britain and Ireland by Works of Drainage," and of any and every other act for the time being in force relating to any of the aforesaid commissioners, so far as the same may concern or be auxiliary to the proceedings or inquiries of the commissioners under the authority of such acts or any of them, or the authentication of instruments, shall, except as in this act otherwise provided, extend and be applicable to their proceedings and inquiries, and the authentication of instruments, under this act. Provisions of 9 & 10 Vict. c. 101, &c., to extend and be applicable to proceedings of commissioners.

4. Every assistant commissioner or inspector acting in any matter, inquiry, or proceeding by the authority and in the execution of this act may receive declarations and statements, and examine upon declaration all such persons as may voluntarily attend before him in such matter, inquiry, or proceeding. Assistant commissioners may take declarations and examine witnesses.

5. If any person shall wilfully give false evidence in any matter, inquiry, or proceeding under the provisions of this act, or shall make or subscribe a false statement or declaration for the purposes of this act, such person shall, in England or Ireland, be deemed guilty of a misdemeanor, and in Scotland of a crime and offence, and shall be punished accordingly. Punishment of person giving false evidence.

6. Any notice requiring to be served upon the commissioners may be served by the same being left at or transmitted through the post, directed to their office in London. As to service of notices on commissioners.

7. In all cases in which it shall be necessary under the provisions of this act to serve any notice upon any other person, it shall be sufficient to send such notice in a registered post letter, directed to such person at his then or last known place of residence or of business, unless the letter containing such notice shall be returned from the post office as undelivered; and if such person shall not have any place of residence or of business within Great Britain or Ireland, or if the place of business or of residence of such person cannot with due diligence be ascertained, then such notice may be served upon such other person as his representative, or be given in such other manner as the commissioners shall in such case direct or approve. As to the services of notices on other persons.

8. The word "landowner" shall mean herein, as to lands in England, the person who shall be in the actual possession of the same. Interpretation of "landowner."

27 & 28 VICT.
CAP. 114.

1 & 2 Vict.
c. 108.

Interpreta-
tion of "Im-
provement
of land."

Tramways
and rail-
ways.

Interpreta-
tion of
"person."

possession or receipt of the rents or profits of any land, whether of freehold, copyhold, customary, or other tenure, except where such person shall be a tenant for life or lives holding under a lease for life or lives not renewable, or shall be a tenant for years holding under a lease or an agreement for a lease for a term of years not renewable, whereof less than twenty-five years shall be unexpired at the time of making any application to the commissioners, without regard to the real amount of the interest of any person so excepted; and in the case where the person in the actual possession or receipt of the rents or profits of any land shall fall within the above exceptions, then the person who for the time being shall be in the actual receipt of the rent payable by the person so excepted, unless he shall also fall within the above exceptions, shall, jointly with the person who shall be liable to the payment thereof, be deemed for the purposes of this act to be the owner of such lands; and as to lands in Scotland, the word "landowner" shall denote and include every fiar, liferenter, or heir of entail who shall be in the actual possession of the land, or in receipt of the rents payable on the tacks, leases, or tenancies of the tenants in the actual possession thereof; and as to lands in Ireland, the word "landowner" shall mean such person as under the act passed in the first and second years of the reign of her present majesty, intitled "An Act to abolish Compositions for Tithes in Ireland, and to substitute Rentcharges in lieu thereof," shall have the first estate of inheritance, or other estate or interest equivalent to a perpetual estate or interest therein, and also any tenant in dower or by the courtesy, or any person having under the limitations of any settlement by deed, will, act of parliament, or otherwise any estate for life, or other particular estate thereby created or limited out of or in any estate of inheritance, or by, out of, or in any such estate or interest as by or under the last-mentioned act is to be deemed equivalent to a perpetual estate or interest; and as to lands in any part of the united kingdom, the word "landowner" shall include a corporation, and also such persons as are empowered by the twenty-third section hereof.

9. By "the improvement of land" shall herein be meant all or any of the following matters: (*inter alia*)

6. The making of permanent farm roads and permanent tramways and railways and navigable canals for all purposes connected with the improvement of the estate:

10. The word "person" shall in this act include companies and all other corporations.

27 & 28 VICT. c. 114. iii.

And with regard to the proceedings preliminary to the sanction of any improvements, be it enacted as follows :

13. The commissioners may from time to time frame and circulate, as they shall see occasion, forms indicating the particulars of the information to be furnished to them by landowners for the purposes of this act, and such other forms as the commissioners may deem expedient for facilitating any proceedings under this act.

14. The commissioners may require security to be given to them by the landowner, by bond, deposit, or otherwise, in such form as they may think fit, for the payment to them of the expenses which they or their officers shall incur in respect of the investigation on any application, and, if they shall issue such provisional or other sanctioning order as herein-after mentioned, of the expenses which they or their officers shall incur in inspecting and ascertaining the due execution of the works ; but unless the commissioners shall issue such absolute order as herein-after mentioned, such payment shall not be a charge on the land to which such application relates, but shall be a debt due by the person making such application to the commissioners, and shall be recoverable by them as in the nature of a crown debt.

15. If the commissioners shall think fit to entertain the application so made to them, they may cause the land to be inspected and examined by an assistant commissioner, or an engineer or surveyor, who shall have regard to and examine the proposals and statements contained in such application, and shall report his opinion thereon, and who shall also report whether in his judgment the proposed improvements will effect a permanent increase of the yearly value of the land exceeding the yearly amount proposed to be charged thereon in respect of the improvements applied for ; and the commissioners may by themselves, or any assistant commissioner, engineer, or surveyor, make such other inquiries in relation to any such application as they shall think fit : Provided that the above requisition as to increased annual value shall not apply to any outlay proposed to be made upon or in respect of planting only.

17. Before the commissioners shall sanction any improvements, notice shall be given of the application as well by advertisement inserted in two successive weeks in some newspaper published in the county in which the land to be improved lies, or in case there shall be no such newspaper published in such county then in some county adjoining thereto, as by a notice in writing given, where such lands are situate in England or Ireland, to every

27 & 28 VICT.
CAP 114.

Proceedings preliminary to sanction of improvements.

Commissioners may issue forms ; require security for expenses ;

and cause application to be investigated.

Advertisements and notices preliminary to sanction.

27 & 28 VICT.
CAP. 114.

person entitled to any estate in such land, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance therein, and to every person entitled to any mortgage upon such land or any part thereof who by reasonable inquiry shall be known to be so interested, and given, where such lands are situate in Scotland, to the nearest heir or heirs of entail, not exceeding three, and to the holders of every heritable security on such lands appearing upon the records; and in such advertisements and notices respectively shall be stated the maximum amount which it is proposed to charge in respect of the improvements, and the greatest and least terms over which it is proposed that the rentcharge should be spread; and the commissioners shall not sanction the improvements until one month shall have elapsed from the publication of the second of such advertisements and the service of such notices (if any) respectively, of which publication, and of the service of all necessary notices as aforesaid, the landowner shall, if required by the commissioners, satisfy them by one or more statutory declarations made by him or on his behalf.

Power of
dissent by
persons
interested,
and pro-
tection of
landowner's
infant chil-
dren.

18. In case any person having any estate in or charge or security on the land to be improved shall within the month named in the last preceding section signify in writing to the commissioners his dissent from such application, stating therein the nature of his estate in or charge or security on such land, the commissioners shall certify such dissent to the landowner by whom the application was made, and shall not make any provisional or other order sanctioning the improvements unless or until such dissent be withdrawn, or an order be made by the high court of chancery in England or Ireland respectively, or by the court of session in Scotland, in manner herein-after provided, authorizing the commissioners to sanction the same; nor shall they make any provisional or other order sanctioning the improvement of any land in the case of which the landowner, or the husband of the landowner, shall be the father of the person or persons entitled either at law or in equity to any estate in such land, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance, and such person or persons, or any of them, shall be an infant or infants, or a minor or minors, unless or until such an order as herein-before mentioned shall be made by such court as aforesaid.

Consents ne-
cessary in

20. When the land to which the application relates, or any part of such land, is held in right of any church,

26 & 27 VICT. C. 114. v.

chapel, or other ecclesiastical benefice, the commissioners shall not sanction any improvement of such land, or of so much thereof as is so held, unless and until the patron of the benefice, and in England and Ireland the bishop of the diocese, and in Scotland the presbytery of the bounds, shall signify to the commissioners, by writing under their hands, their respective consents to such application.

27 & 28 VICT.
CAP. 114.

case of
church
lands.

21. If and when any dissent from any such application to the commissioners for their sanction of proposed improvements shall have been notified in writing to the commissioners, either by a party interested in the lands proposed to be improved (not being lands held in right of any church, chapel, or other ecclesiastical benefice), or by the commissioners, trustees, company, or other body or individuals interested in any river or canal which would or might be interfered with as herein-before mentioned, or if the landowner, or the husband of the landowner, shall be the father of the person or persons entitled either at law or in equity to any estate in the land to be improved, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance, and such person or persons, or any of them, shall be an infant or infants, or a minor or minors, the landowner desiring such improvements may apply to the high court of chancery in England or Ireland where such lands are situate in England or Ireland respectively, or to the court of session where such lands are situate in Scotland, for an order of such court authorizing the commissioners to entertain and proceed upon the application for such proposed improvements notwithstanding such dissent or circumstance; and such application shall be made, as to lands in England, to the master of the rolls or any one of the vice chancellors sitting at chambers, by summons, calling on the party dissenting to show cause why such order should not be made; as to lands in Ireland, to the master of the rolls, by summary petition or otherwise, as he shall by any general order direct; and as to lands in Scotland, to either division of the court of session in time of session, or to the lord ordinary sitting on bills in time of vacation, by summary petition; and the court or single judge, as the case may be, to whom such application shall be made, shall hear and determine such application, and for that purpose shall have power to make or direct to be made all such inquiries, and receive and entertain all such statements and evidence, on oath or by affidavit, as such court or judge may consider necessary or desirable, or as may be produced before them or

In case of
dissent,
or when
landowner's
infant children
are to be
protected,
court of
chancery
or session
may authorize
commissioners
to proceed.

27 & 28 VICT.
CAP. 114.

him; and if upon a consideration of all the circumstances such court or judge shall be of opinion that the commissioners should entertain and proceed upon such application, an order shall be made authorizing and requiring them to proceed thereon, and to deal with the same according to the provisions of this act authorizing them in that behalf, notwithstanding such dissent or circumstance as aforesaid: Provided that if at any time after notification of such dissent, and before any such order shall have been applied for and made as aforesaid, such dissent shall be withdrawn by a like notification in writing, it shall not be necessary to make or proceed with such application, or to obtain such order.

Service of
notice under
preceding
clause.

22. Where any party dissenting shall be out of the jurisdiction of the court, it shall be lawful for the court or judge to order service to be made in such manner as such court or judge may think fit, and upon proof to the satisfaction of such court or judge that such party has had actual notice within a reasonable time of such intended application, it shall be lawful for such court or judge thereupon to hear and determine such application.

And costs
may be
given by
the court.

23. The costs of and incidental to every application under the twenty-first and twenty-second sections, and the mode in which such costs shall be settled or taxed, shall be in the discretion of the court or judge who shall hear such application, and if such court or judge shall so direct, the said costs shall be deemed to be part of the expenses of and incidental to the application for the proposed improvements.

Sanction of
improvements,
and
rights there-
under.

And with regard to the sanction of any improvements, and the rights arising thereunder, be it enacted as follows:

Com-
missioners'
order sanc-
tioning im-
provements.

25. If the commissioners shall find that the proposed improvements or any part thereof, whether with or without any alterations by them required or sanctioned, would effect a permanent increase of the yearly value of the lands proposed to be improved, or of any part thereof, exceeding the yearly amount proposed to be charged thereon, they shall sanction such improvements, or such part thereof as they shall think expedient, if under the preceding sections it shall be lawful for them so to do, by an order under their hands and seal; and they shall by the same order fix the rate of interest to be allowed on the cost of the sanctioned improvements, having regard to the market value of money at the time, but such interest shall never exceed five per cent per annum.

Charges for
improvements.

And with regard to charges for improvements under this act, be it enacted as follows:

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50. If the landowner is desirous that the inheritance or fee of the lands improved should be charged with the expenses of and incident to his application to the commissioners, or his contract with any company or person relating to the execution of the improvements, or to the advance of money for their execution, the commissioners may ascertain the amount of the costs, charges, and expenses properly incurred preparatory or in relation to and consequent on such contract, and the application to the commissioners or either of them, and may include in the principal money charged on the inheritance or fee of such lands the amount of such costs, charges, and expenses, and of the settled or taxed costs, if any, which a court or judge shall have ordered as aforesaid to be deemed and taken to be part of the expenses of and incident to the application for improvements, or such part thereof as the commissioners think fit; and the commissioners may also include in such principal money interest at a rate not exceeding five pounds per centum per annum on all payments forming part of the same principal money from the respective dates of such payments to that of the absolute order, but so that no interest shall be allowed on any such payment for more than six years; provided that the total amount of the principal money to be charged on the lands improved under the provisions of this act shall not in any case exceed that to which, in the opinion of the commissioners, the inheritance or fee of the lands improved will be durably benefited by the improvements.

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O.A.P. 114.

Expenses of application and certain contracts may be included in charge.

51. Every charge under this act shall be created by way of rentcharge, payable half-yearly, extending over the term of years fixed by the provisional or other sanctioning order, and the first payment thereof to be made six months after the time when the works in respect of which the same was granted were executed to the satisfaction of the commissioners; and the payment for each half year shall be, and be expressed to be, as to part thereof a repayment of a certain amount of principal money, and as to the remainder thereof a payment of interest; and the charge shall be duly stamped for denoting payment of the proper ad valorem stamp duty which would be payable on a mortgage for securing the like amount as the principal money thereby charged, and shall be called an absolute order; and a copy of every such absolute order shall be authenticated by the seal of the commissioners, and shall be kept by them; and such copy, and any copy thereof authenticated by their seal, shall be evidence of the contents and purport of the same absolute order.

The charges to be by way of rentcharge created by absolute order;

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CAP. 114.

and may
be made
according
to form in
schedule (B.)

Subscription
to railways.

Conditions
for applica-
tion to com-
missioners.

Commis-
sioners pro-
ceedings on
application.

Provisional
order sanc-
tioning
charge.

52. Charges under this act shall be made according to the form in the schedule (B.) hereto annexed, or as near thereto as the circumstances of the case will admit.

And with regard to charging lands with money subscribed for the construction of railways, be it enacted as follows :

78. In case any landowner shall be desirous of subscribing for any shares or stock in the capital, whether original or additional, of a company having power to construct a railway or navigable canal, or any branch or extension railway or navigable canal, or any deviation of a line of railway or a navigable canal already sanctioned, the works for which such subscription is to be made being unfinished, or in any additional capital to be raised for the completion of any such railway, canal, branch, extension, or deviation, the same being upon or near to and which will improve or benefit the lands of such landowner, and who shall be desirous that such amount, or any part thereof, may be charged upon the lands so to be improved, it shall be lawful for him to apply to the commissioners for that purpose within the time limited by the railway or canal company's act or acts for the construction of the works in question.

79. If the commissioners shall think fit to entertain such application, they shall cause all such inquiries to be made, and take all such other steps, as shall seem to them expedient for obtaining information as to the circumstances ; and all the provisions of the thirteenth, fourteenth, fifteenth, seventeenth, eighteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fifth, and fifty-first sections of this act shall apply to the case as though an improvement were to be made of the lands proposed to be charged.

80. If the commissioners shall be satisfied that the railway or canal, when constructed and open for traffic, will effect a permanent increase of the yearly value of the lands exceeding the yearly amount proposed to be charged thereon, they shall execute and deliver to the landowner a provisional order, under their seal and the hands of two of them, expressing their sanction of the charge proposed ; and such order shall be made as near to the form set forth in the schedule (A.) to this act as the circumstances will permit, and shall, with the right to a charge thereby created, be assignable by endorsement, either absolutely or by way of security, to any company or person that may agree to advance, by paying the same to the railway or canal company, the amount authorized to be charged, and notice of such assignment

shall be given to the commissioners, and shall be registered by them. 27 & 28 VICT. CAP. 114.

81. Every company empowered by act of parliament to lend money for the improvement of land is hereby empowered to advance, by paying the same to the railway or canal company, any money authorized to be charged in manner aforesaid. Companies empowered to lend.

82. When the railway or canal shall have been completed and opened throughout for public traffic, and as many shares in the capital of the railway or canal company subscribed for or held as aforesaid by the landowner as shall be equal in nominal amount to the money authorized to be charged shall have been fully paid up, and the certificates for such shares shall have been deposited by the landowner with the commissioners, the commissioners shall, by an absolute order under their hands and seal, execute to the landowner or his assignees a charge upon the inheritance or fee of the lands in question of the amount authorized as aforesaid to be charged, and may, if the landowner shall so desire, include, with the principal money so charged, the costs, charges, and expenses of the application and orders, and of any advance which may have been made to him of the amount authorized to be charged, and such settled or taxed costs and interest as mentioned in the fiftieth section hereof, subject nevertheless to the proviso in the same section contained. Commissioners absolute order and its conditions.

83. Such absolute order shall be made in the form in the schedule (B.) to this act annexed, or as near thereto as the circumstances will permit, and all the provisions of this act relating to absolute orders, whether in respect of the form or effect of such charges or orders or otherwise, except only the provisions for the apportionment and release of such charges, shall apply to absolute orders under the last preceding section as far as the circumstances admit. Form and effect of absolute order.

84. The landowner shall forthwith give notice to the railway or canal company of the execution of such absolute order, and of the deposit of such certificates with the commissioners, and thereupon the company shall make an entry or memorial in their register of shareholders with respect to such shares of the fact of such absolute order having been executed. Notice thereof to be entered in register of shareholders.

85. From the time of such notice, and during the whole term of the charge created by such absolute order, the person who for the time being shall be bound to make the periodical payments of such charge shall be entitled to the said shares, and if the same shall not at the time being be registered in his name, the person registered as Person liable to pay charge to be entitled for the time being to the shares,

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CAP. 114.

and to have
them stand
in his own
name.

Rights and
duties of
persons
registered
for the time
being in re-
spect of the
shares.

Entire
shares to be-
long to par-
ties in pro-
portion to
their pay-
ments, and
to be releas-
ed to them
from time to
time.

the holder thereof shall, as between himself and the person so entitled, hold them in trust for such last-mentioned person.

86. The person so for the time being entitled may at any time require the person registered as the holder of the said shares, or his representatives, to transfer to him the said shares, and such transfer shall thereupon be made accordingly, but at the expense in all respects of the transferee; and upon the production of such transfer duly stamped, and of a certificate by the commissioners under their hands and seal that the transferee is the person at the time being bound to make the periodical payments of the said charge, the railway or canal company shall register such transfer.

87. With the exception of such transfers as may from time to time be made for the purpose of transferring the shares to the person so for the time being entitled thereto, the said shares shall not under any circumstances be transferred or disposed of by the registered holder, whether he be the person for the time being entitled thereto or not, during the term of the said charge; but during the term of such charge the registered holder for the time being of the said shares shall have all the other rights and powers of a shareholder in the railway or canal company in respect of the said shares; and the railway or canal company shall not be bound to see to the application of any dividend received by such registered holder, but as between himself and the person or persons for the time being entitled to such shares he shall hold any dividend which may be received by him in trust for the person who, at the time when such dividend became payable, was the person entitled to the said shares.

88. Whenever any person or those whom he legally represents as their executor or administrator shall have been bound to make, and shall have made, such and so many periodical payments of the charge as to repay thereby principal money which, in proportion to the whole amount of principal money charged and the whole number of the said shares, shall correspond to any integral number of shares, with or without a fraction over, it shall be lawful for the commissioners, on the application of such person, made either during the term of the charge or within two years after its expiration, to certify that fact under their hands and seal, and by the same certificate to appropriate to such person certain specified shares to such integral number, and to deliver to him the corresponding share certificates; and upon the production to the railway or canal company of such certi-

ificate by the commissioners and share certificates, it shall be lawful for such person, if he shall not already be the registered holder, to require such share to be transferred to him, and the railway or canal company shall make an entry or memorial on their register of shareholders of such shares being freed from the provisions of this act, or of the term of the charge having expired, as the case may be, and such shares shall thenceforward be held and transferred in the same manner as any other shares in the same company, but if the term of the charge shall not have expired the three last preceding sections of this act shall still apply to the residue of the shares to which the same charge shall relate.

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CAP. 114.

89. The shares composing the said residue shall at the end of two years after the expiration of the term of the charge belong to the person who shall have been bound to make the last periodical payment of the charge, or to his executors or administrators, on such payment being made; and the commissioners shall deliver to him or them the corresponding share certificates, and certify the title to the shares under their hands and seal in accordance with the above provision; and upon the production to the railway or canal company of the share certificates and such certificate by the commissioners, such person as aforesaid, or his executors or administrators, shall have the said shares transferred to him or them, so far as he or they shall not be already the registered holder or holders thereof; and the railway or canal company shall make an entry or memorial on their register of shareholders of the term of the charge having expired, and thenceforward the said shares shall be held and transferred in the same manner as any other shares in the same company.

Shares not claimed within two years from expiration of term to belong to person bound to make last payment of charge.

90. And whereas it is expedient that a table or tables of fees proper to be taken by the inclosure commissioners in respect of documents issuing out of their office by virtue of the provisions of this act should be prepared: Be it enacted, that it shall and may be lawful for the said inclosure commissioners to prepare or cause to be prepared a table or tables of fees, specifying what fees are proper to be demanded and taken in the office of the said inclosure commissioners in respect of any forms, orders, or documents prepared in or issued from such office by virtue of the provisions of this act; and such table or tables shall be laid before the commissioners of her majesty's treasury, who shall have power to revise and settle the same, and from time to time to alter or amend the same, as they may deem necessary and proper, and the said table or tables of fees, so revised, settled, altered,

Inclosure commissioners to cause a table of fees to be prepared and submitted to treasury for approval.

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CAP. 114.

Officers to
render ac-
count of fees
received to
the treas-
ury.

To be paid
over to the
consolidated
fund.

or amended, from time to time to approve and allow; and the said inclosure commissioners are required, so soon and as often as each table or tables of fees shall have been approved and allowed, to cause the same to be inserted and published in the London Gazette, and from and after such publication, such fees may be legally demanded, and may be received and recovered, by any person appointed by the said inclosure commissioners to receive or recover the same.

91. The said inclosure commissioners shall cause the fees received by them under the authority of this act to be duly and regularly entered in one or more books to be kept for that purpose, distinguishing the fees received under their several heads, and shall render a true and faithful account thereof to the commissioners of her majesty's treasury at such times, and in such form of account, and with such particulars of receipt or otherwise, and accompanied by such vouchers, as the said commissioners of her majesty's treasury shall from time to time require; and the said inclosure commissioners shall from time to time, when required so to do by the said commissioners of her majesty's treasury, cause the amount of such fees to be paid into the receipt of the exchequer to the credit of the consolidated fund of the united kingdom of Great Britain and Ireland.

SCHEDULES to which the foregoing act refers.

(A.) PROVISIONAL ORDER.

(Proper heading.)

The inclosure commissioners for England and Wales, in pursuance of "The Improvement of Land Act, 1864," do, by this order under their hands and seal, sanction the proposed improvements expressed

upon the terms and conditions that such improvements be executed in the manner mentioned or specified in the said contract, and at an expense not exceeding the sum of

and do hereby declare and provisionally order that it is right and proper, and for the benefit of the parties interested in the lands mentioned in the schedule hereto, that the inheritance or fee of such lands should

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be charged with the said sum of _____ together with the costs, charges, and expenses preparatory or in relation to and consequent on the said contract and the application for this order, and that the same should, to the whole amount of such respective monies, [or should to any amount not exceeding _____ as the case may be,] be charged in the manner following; (that is to say,) [here express how the amount is to be repaid, with interest.]

In witness whereof they have hereunto affixed their hands and seal, this _____ day of _____ in the year of our Lord one thousand eight hundred and _____

SCHEDULE of lands provisionally charged.

Name, &c. of Lands.	Land- owner.	Occupier.	Parish.	County.	Total Acreage.	Total Rental.

(B.) ABSOLUTE ORDER.

The Improvement of Land Act, 1864.

County of _____
Parish of _____
No. _____

[Here insert name of landowner] of [here insert address]
Loan of _____ pounds for the improvement of _____
in the parish of _____ in the county of _____

The inclosure commissioners for England and Wales, in pursuance of "The Improvement of Land Act, 1864," do, by this absolute order under their hands and seal, charge the inheritance or fee of the lands mentioned in the schedule hereto with the payment to

_____ of the yearly sum of _____
pounds _____ shillings and _____ pence, payable
half-yearly on the _____ day of _____ and
the _____ day of _____ in every year, for
the term of _____ years, and being a proportionate repayment,
according to the table annexed, of the capital sum of _____
pounds, with interest, at _____ per cent. per annum, the
first half-yearly payment to be made on the _____ day of _____

Dated this _____ day of _____ 18
27 & 28 VICT. c. 114, xiv.

SCHEDULE of lands charged.

Name &c. of Lands.	Land- owner.	Occupier.	Parish.	County.	Total Acreage.

TABLE.

Half-yearly Payments.	Proportionate Repay- ments of the Loan.	Interest at £ per Cent. per Annum.

(F.) VESTING ORDER.

The inclosure commissioners for England and Wales, in pursuance of "The Improvement of Land Act, 1864," do, by this order under their hands and seal, in consideration of £ to them paid by A. B. of transfer to and vest in the said A. B., his executors, administrators, and assigns, Shares of and in the railway or canal company, numbered and now registered in the Name of O. D.

In witness whereof they have hereunto affixed their hands and seal, this day of in the year one thousand eight hundred and

RAILWAY COMPANIES' POWERS, 1864.

27 & 28 Vict. Cap. 120. An Act to facilitate in certain cases the obtaining of further Powers by Railway Companies. [29th July, 1864.]

WHEREAS it is expedient that in certain cases railway companies be enabled to obtain further powers on complying with the conditions of a general act of parliament, without being obliged to procure in each case a special act:

Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This act may be cited as The Railway Companies' Powers Act, 1864. Short title.

2. In this act —

The term "railway" includes works connected with or for the purposes of a railway, and also a railway authorized to be but not actually constructed: Interpretation of terms "Railway."

The term "railway bill" means a bill pending in or intended to be introduced into either house of parliament, having for its object or one of its objects to authorize the making of a railway: "Railway Bill."

The term "the Companies Clauses Acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, The Companies Clauses Consolidation Act, 1845; and, so far as the same re- "Companies Clauses Acts." 8 & 9 Vict. c. 16.

lates to Scotland, or to a certificate to be operative in Scotland, The Companies Clauses Consolidation (Scotland) Act, 1845; together with in each case 8 & 9 Vict. c. 17.

The Companies Clauses Act, 1863:

The term "the Board of Trade" means the lords of the committee for the time being of her majesty's privy council appointed for the consideration of matters relating to trade and foreign plantations. 26 & 27 Vict. c. 112. "Board of Trade."

Description of Cases within this Act.

3. This act shall take effect and apply in each of the cases following; namely,

I.—Where a railway company are desirous that authority should be given to themselves and some Cases in which act to apply. Agreements between railway companies.

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CAP. 120.

other railway company or companies to enter into an agreement with respect to all or any of the matters following; namely,

The maintenance and management of the railway of the companies respectively, or of any one or more of them, or of any part thereof respectively;

The use and working of the railways or railway or of any part thereof, and the conveyance of traffic thereon;

The fixing, collecting, and apportionment of the tolls, rates, charges, receipts, and revenues levied, taken, or arising in respect of traffic;

The joint ownership, maintenance, management, and use of a station or other work; or the separate ownership, maintenance, management, and use of several parts of a station or other work:

Extension of time for sale of superfluous lands.

II.—Where a railway company are desirous of obtaining an extension of the time limited for the sale by them of superfluous lands:

Raising additional capital.

III.—Where a railway company incorporated by special act or by certificate under The Railways Construction Facilities Act, 1864, are desirous of obtaining authority to raise additional capital.

Application for Certificate.

As to application for certificate by company to board of trade.

4. In any such case the company, if desirous to obtain a certificate under this act, shall proceed as follows; namely,

(1.) They shall apply to the Board of Trade for a certificate under this act:

(2.) They shall lodge at the office of the Board of Trade a draft of the certificate as proposed by them:

(3.) They shall publish notice of the application according to the general rules under this act.

Board to inquire if requirements have been complied with;

5. As soon as conveniently may be after the time for completion of the required notice, the Board of Trade shall proceed to inquire whether the company have complied with the requirement of the general rules respecting notice.

and to consider all representations and objections.

6. The Board of Trade before settling a draft of a certificate, shall take into consideration any representation made to them, and shall duly enquire into the merits of any objection brought before them, respecting the application.

Opposition of Railway or Canal Company to Application.

On railway or canal company

7. If in any case any railway or canal company desire to be heard by counsel, agents, and witnesses against

the application of the promoters, and (within such time as is prescribed by general rules under this act) lodge at the office of the Board of Trade a notice in writing to that effect (herein-after referred to as a notice of opposition) in the form set forth in the schedule to this act (with such variations as circumstances require), in that case the board of trade, if the railway or canal company lodging the notice would be affected in any way by the proposed certificate, shall not proceed on the application of the promoters.

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CAP. 120.

affected giving notice of opposition proceedings before board of trade to cease.

8. Where the board of trade do not proceed on the application they shall, not later in any year than the fifteenth day of February, if parliament is then sitting, and if not, then within seven days after the next meeting of parliament, lay before both houses of parliament a copy of the draft certificate lodged by the promoters and of the notice of opposition; and the promoters shall be at liberty to seek by way of bill in the same session, in such manner and on such conditions as the houses of parliament respectively by standing order or otherwise from time to time direct, such powers as were sought by them by way of certificate.

Further proceedings to be in parliament.

Settlement of Draft Certificate.

9. Where the board of trade proceed on the application, then, on being satisfied that the company have complied with the requirements of the general rules respecting notice, they may, if they think fit, settle a draft of a certificate, certifying to the effect following; namely,

Power to board of Trade to settle certificate according to nature of application as herein-named.

In the first-mentioned case that the companies in the certificate specified are authorized to agree among themselves with respect to all or any of the matters aforesaid in the certificate specified;

In the secondly-mentioned case, that the time limited for the sale by the company of superfluous lands is extended as in the certificate specified;

In the thirdly-mentioned case, that the company are authorized to raise, as capital, for the purposes of the certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the company, or as may be prescribed in the certificate, and with power to create and issue debenture stock.

10. The board of trade may (subject to the provisions of this act, and having regard to the provisions of any special act relating to any company empowered by a certificate,) insert in the certificate such provisions as

Insertion of conditions in certificate.

27 & 28 VICT. c. 120. iii.

27 & 28 VICT.
CAP. 130.

Form of cer-
tificate.

Draft certi-
ficate to be
laid before
houses of
parliament.

Notice there
of to be
given.

If either
house re-
solve that
certificate
ought not to
be made, it
shall not be
proceeded
with.

If neither
house re-
solve that
certificate
ought not to
be made, board
of trade may
issue the
same.

Publication
of certificate
in Gazette.

Operation of
certificate as
special act.

they, according to the circumstance of the case, deem necessary or proper for better effectuating the purposes of the certificate, and the same shall be deemed to all intents part of the certificate.

11. The certificate may be in the form set forth in the schedule to this act, with such provisions as aforesaid.

Submission of draft certificate to Houses of Parliament.

12. The board of trade shall lay the draft certificate settled by them before both houses of parliament within seven days after the same is settled, if parliament is then setting, or if not, then within seven days after the next meeting of parliament, but not later in any year than the first day of June.

13. On the draft certificate being settled the promoters shall give notice thereof according to general rules under this act.

14. If either house of parliament within six weeks after the draft of certificate settled by the board of trade is laid before that house resolves that the certificate ought not to be made, the same shall not be further proceeded with.

Issue and Publication of Certificate.

15. If neither house of parliament within the period aforesaid thinks fit to resolve that the certificate ought not to be made, then as soon as the period of six weeks after the laying of the draft certificate before both houses of parliament has expired the board of trade may make and issue a certificate in conformity with such draft.

16. The certificate shall be published as follows; namely,

Where one company only is thereby empowered, then in the London, Edinburgh, or Dublin Gazette, according as the head office of the company is situate in England, Scotland, or Ireland:

Where two or more companies are thereby empowered, then in one or more of the gazettes, according as the several head offices of the companies respectively are situate in England, Scotland, and Ireland respectively.

Effect of Certificate.

17. As from the time (not being prior to such publication) in the certificate prescribed, and if none is prescribed then as from the time of such publication, the certificate shall have the same force and operation, and shall be as absolutely valid and conclusive to all intents, as if the contents thereof (taken in conjunction with this act) had been expressly enacted by parliament; and

the validity of the certificate shall not be impeached on account of any alleged informality in any court or elsewhere.

18. The certificate shall be judicially noticed without being specially pleaded.

19. Terms used in the certificate shall have the same meanings as they have when used in this act.

20. There shall be incorporated with the certificate (which shall for this purpose be deemed the special act)—

In the first-mentioned case, Part III. of the Railways Clauses Act, 1863 ;

In the thirdly-mentioned case, the Companies Clauses Act.

21. In the first-mentioned case, during the continuance of any agreement for the joint working of any two railways, in the calculation of tolls and charges for short distances in respect of traffic conveyed on both railways, the distances traversed shall be reckoned continuously on such railways as if they were one railway.

22. It shall not be lawful for any company empowered by a certificate under this act to issue any share created under the authority of the certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share is paid up in respect thereof.

23. In the thirdly-mentioned case the company, whether incorporated by special act or by certificate, shall be subject to the following restrictions ; namely,

- (1.) They shall not exercise any power of borrowing money under the certificate until the whole of the share capital authorized by the certificate is subscribed for or taken, and until one half thereof is actually paid up, and until they prove to the justice who is to certify under section 40 of The Companies Clauses Consolidation Act, 1845, or (in Scotland) to the sheriff who is to certify under section 42. of The Companies Clauses Consolidation (Scotland) Act, 1845, as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares are taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matters the certificate of the justice or sheriff shall be sufficient evidence) :

27 & 28 Vict.
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Judicial
notice of
certificate.

Interpreta-
tion of cer-
tificate.

Companies
Clauses
Act, and
part of 26 &
27 Vict. c.
92 incor-
porated.

Rule as to
short dis-
tances.

Restriction
as to issue
of shares.

Restrictions
on company
as to borrow-
ing, &c.

8 & 9 Vict.
c. 18, s. 40.

8 & 9 Vict.
c. 17, s. 42.

27 & 28 VICT.
CAP. 120.

- (2.) They shall not borrow a larger sum in the whole than one third of the amount of the share capital authorized by the certificate :
- (3.) They shall not, out of money raised under the certificate by calls or borrowing, pay interest or dividend to a shareholder on the amount of calls made on his shares, whether created under the certificate or otherwise (but this provision shall not prevent them paying to a shareholder under the certificate such interest on money advanced by him beyond the amount of calls actually made as is allowed by the Companies Clauses Acts) :
- (4.) They shall not, out of money so raised, pay or deposit any money that may be required to be paid or deposited in relation to any application to parliament or the board of trade :
- (5.) They shall apply every part of the money so raised only for the purposes for which it is by the certificate authorized to be applied.

Miscellaneous.

Power to
board of
trade to
reject ap-
plication.

24. Nothing in this act shall make it obligatory on the board of trade to settle a draft of a certificate in any case if it appears to the board of trade for any reason that the application for a certificate should not be complied with.

Nothing to
exempt rail-
ways from
operation
of general
acts.

25. Nothing in the certificate shall exempt any railway to which it relates, or the company to whom that railway belongs, from the provisions of any general act of parliament relating to railways, or to the better audit of the accounts of railway companies, passed before or after the issuing of the certificate, or from any revision and alteration, under the authority of parliament, of the maximum tolls and charges allowed to be taken in respect of that railway.

Certificate
under this
and Rail-
ways Con-
struction
act.

26. A certificate may be made under this act and The Railways Construction Facilities Act, 1864, jointly, and in any such case the forms of certificate given in this act and the said act may be adapted to the circumstances of the case.

Approval by
members of
company
required, as
under stand-
ing orders.

27. Where, in case the company were proceeding by a railway bill instead of under this act, the approval of the bill in any manner by the members of the company would be required under the standing orders of either house of parliament for the time being in force, the board of trade shall not issue a certificate without being satisfied that the members of the company have in like manner approved of the application to the board of trade.

28. Subject and according to the restrictions and provisions of this act, the board of trade, on the application of the company, may from time to time amend, extend, or vary by certificate any certificate issued under this act, and may by certificate revoke a previous certificate issued under this act.

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CAP. 120.

Power for board of trade to amend or revoke certificate.

29. If in any case it is made to appear to the board of trade that any error has been committed in a certificate or in relation thereto, the board of trade may, subject and according to the restrictions and provisions of this act, on the application of the company, body, or person affected by the error, and on notice to the company or companies empowered by the certificate, correct the error by a further certificate.

Power to correct error.

30. A copy of the London or Edinburgh or Dublin Gazette containing a certificate or a copy of a certificate, purporting to be printed by the printers of the London, Edinburgh, or Dublin Gazette, shall be conclusive evidence of the certificate and of the due publication thereof, without any proof of the gazette or without any proof of the copy having been in fact so printed, as the case may be.

Proof of certificate.

31. Every company empowered by a certificate shall at all times keep at their head office copies of the certificate printed by the printers of the gazette or one of the gazettes in which the same was published in such form as general rules direct, to be sold to all persons desiring to buy the same at a price not exceeding one shilling for each copy.

Copies of certificate for sale.

If any company fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred.

32. The provisions of this act relative to the first-mentioned case and to the secondly-mentioned case respectively shall extend and apply, *mutatis mutandis*, to the proprietors of a railway although not incorporated as a company.

Application of act to proprietors of railways generally.

33. Penalties under this act or under a certificate, the recovery and application whereof are not otherwise provided for, shall be recovered and applied as penalties under The Railways Clauses Consolidation Act, 1845, and The Railways Clauses Consolidation (Scotland) Act, 1845, as the case may require, are recoverable and applicable.

Recovery and application of penalties.
8 & 9 VICT.
CO. 20, 33.

34. The act of the session of the seventh year of king William the Fourth and the first year of her majesty (chapter eighty-three), "to compel Clerks of the Peace

Custody of documents.
7 W. 4. & 1
VICT. c. 68.

27 & 28 VICT. C. 120. vii.

27 & 28 VIOT. "and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament," shall apply to documents required to be deposited by general rules under this act.

General rules in schedule, with power for amendment.

35. The general rules under this act shall in the first instance be those set forth in the schedule to this act; and the board of trade may from time to time, for the better execution of this act, make general rules adding to, altering, or revoking any general rules for the time being in force under this act; but any general rules so made by the board of trade shall not have effect unless and until they are laid before both houses of parliament; and if either house of parliament, within six weeks after the same are laid before that house, thinks fit to resolve that the same or any part thereof ought not to take effect, the same or that part thereof (as the case may be) shall not take effect; otherwise all rules made by the board of trade under the present section shall be of the same force and effect as if they had been comprised in the schedule to this act.

All general rules which are to take effect under the present section shall be published in the London, Edinburgh, and Dublin Gazettes.

Annual report to parliament by board of trade.

36. Not later than the first day of July in each year the board of trade shall lay before both houses of parliament a report respecting the applications to and proceedings of the board of trade under this act during the year then last past.

The SCHEDULE referred to in the foregoing Act.

(i).—NOTICE OF OPPOSITION.

In the matter of
The Railway Companies' Powers Act, 1864,
and

The application of the railway company for a certificate the draft whereof is intituled [set out title].

We, the railway [or canal] company, hereby declare and give notice that we desire to be heard by counsel, agents, and witnesses against the granting to the above-named railway company of the powers sought to be obtained by them by the above-mentioned application.

Dated this day of

18

Witness, A.B.

L.S.

27 & 28 VIOT. c. 120. viii.

(ii.)—FORM OF CERTIFICATE OF BOARD OF TRADE.

The _____ railway company.
 Certificate of the board of trade for the extension of time
 for sale of superfluous lands [or as the case may be].
 Whereas the _____ railway company have
 complied with the requirements of The Railway Companies' Powers
 Act, 1864:

Now, therefore, the board of trade do, by this their certificate, in
 pursuance of the said act, and by virtue and in exercise of the powers
 thereby in them vested, and of every other power enabling them in
 this behalf, certify as follows:

[Here are to follow the provisions of the certificate showing the
 powers conferred and the terms and conditions (if any) imposed.]

(Signed) O.D.
 The board of trade, Secretary to the board of trade.

Whitehall.
 Dated this _____ day of _____

(iii.)—GENERAL RULES.

Form of Application.

1. The application to the board of trade for a certificate is to be
 made by a memorial in writing under the common seal of the company,
 lodged at the office of the board of trade.

2. Together with the memorial the company are to lodge a printed
 draft of the certificate as proposed by the company.

ADVERTISEMENT AS TO APPLICATION.

3. Notice of the application to the board of trade is to be given by
 advertisement published as follows; namely,

In every case, once in each of three successive weeks in some one
 and the same newspaper of the county, city, or town, or county of a
 city or town, wherein the head office of the promoters is
 situate:

In the case referred to in the foregoing act as the first-mentioned
 case, once in each of three successive weeks in some one and the
 same newspaper of each county, city, or town, or county of a
 city or town, wherein the head office of any railway company
 with whom the promoters propose to enter into an agreement is
 situate:

If in any case there is not any such newspaper as herein-before
 described, then in like manner in a newspaper of some adjoining
 or neighbouring county:

In every case where one company only is proposed to be em-
 powered, then in the London, Edinburgh, or Dublin Gazette,
 according as the head office of the company is situate in Eng-
 land, Scotland, or Ireland:

In every case where two or more companies are proposed to be empowered, then in one or more of the *Gazettes*, according as the several head offices of the company respectively are situate in England, Scotland, and Ireland respectively.

4. The advertisements are to be published either in the month of June or in the month of November, and not at any other time.

5. Each advertisement is to give the address of an office in London where copies of the draft certificate will be supplied as herein-after directed.

6. Each advertisement is to state that all persons desirous of making to the board of trade any representation, or of bringing before them any objection, respecting the application, may do so by letter addressed to the secretary of the board of trade on or before the first day of August or first day of January next succeeding the date of the advertisement, according as the same is published in the month of June or in the month of November.

7. Within one week after the publication of the latest advertisement a copy of each of the newspapers and gazettes containing the several advertisements is to be lodged at the office of the board of trade.

NOTICE TO LANDOWNERS.

8. In the case referred to in the foregoing act as the secondly-mentioned case the promoters, in the month of June or in the month of November (as the case may be) in which the advertisements are published, are to serve notice of the application on the owners of lands adjoining to the lands to which the application relates.

NOTICE OF OPPOSITION.

9. Notice of opposition by a railway or canal company is to be lodged at the office of the board of trade, not later than the first day of August or first day of January next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

NOTICE OF SETTLEMENT OF DRAFT CERTIFICATE.

10. On the draft certificate being settled by the board of trade the promoters are to serve a copy thereof, with a notice that the draft has been settled by the board of trade, on every company, body, or person by whom any representation or objection respecting the application was made to or brought before the board of trade, and are also to give by advertisement or otherwise such public or other notice (if any) thereof as according to the circumstances of the case the board of trade direct.

SUPPLY OF COPIES OF DRAFT CERTIFICATE.

11. From the time of the publication of the first advertisement the promoters are to keep in the office mentioned in this behalf in the advertisement a sufficient number of copies of the draft of the certificate as proposed by them, and are to furnish these copies to all persons applying for them at the price of not more than sixpence each.

27 & 28 VICT. C. 120. x.

12. From the time of the settlement of the draft certificate by the board of trade the promoters are to keep in the office aforesaid copies of the draft supplied to them for that purpose by the board of trade, and are to furnish there copies thereof to all persons applying for them at such price (if any) as the board of trade from time to time direct.

PRINTING OF CERTIFICATE.

13. Copies of the certificate printed by the printers of a gazette are to be printed on ordinary white folio paper, similar in size to the paper on which the public general acts of parliament are printed for public sale.

RAILWAYS CONSTRUCTION FACILITIES, 1864.

27 & 28 Vict. Cap. 121. An Act to facilitate in certain Cases the obtaining of Powers for the Construction of Railways. [29th July, 1864.]

WHEREAS it is expedient to facilitate the making of branch and other lines of railway, and deviations of existing railways, and of railways in course of construction, and also the execution of new works connected with or for the purposes of existing railways :

And whereas the object aforesaid would be promoted if, where all landowners and other parties beneficially interested are consenting to the making of a railway or the execution of a work, the persons desirous of making or executing the same were enabled to obtain power to do so, on complying with the conditions of a general act of parliament, without being obliged to procure a special act :

Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Preliminary.

- | | |
|--|--|
| Short title. | 1. This act may be cited as The Railways Construction Facilities Act, 1864. |
| Interpretation of terms.
"Lands."
"Promoters." | <p>2. In this act—</p> <p>The term "lands" includes any estate, right, or interest in lands :</p> <p>The term "the promoters" means in each case the company or persons intending to apply to the board of trade for such a certificate as is herein-after provided for, and, after the application is made, the company or persons actually making the application, as the case may require :</p> |
| "Railway." | The term "the railway" means in each case the railway and works intended by the promoters before issuing of the certificate, and after the issuing thereof, the railway and works therein comprised, as the case may require : |
| "Lands' Clauses Acts." | The term "the Lands Clauses Acts" means, so far as the enactment in which that term is used relates to |
- 27 & 28 VICT. c. 121. i.

England, or to a certificate to be operative in Eng- 27 & 28 Vict.
land, The Lands Clauses Consolidation Act, 1845; CAP. 121.
and, so far as the same relates to Scotland, or to a 8 & 9 Vict.
certificate to be operative in Scotland, The Lands c. 18.
Clauses Consolidation (Scotland) Act, 1845; to- 8 & 9 Vict.
gether with, in each case, The Lands Clauses Con- c. 19.
solidation Acts Amendment Act, 1860; and so far 23 & 24 Vict.
as the same relates to Ireland, or to a certificate c. 106.
to be operative in Ireland, The Railways Act (Ireland) 14 & 15 Vict.
1851, together with acts incorporated in or amend- c. 70.
ing that act:

The term "the Companies Clauses Acts" means, so far "Companies
as the enactment in which that term is used relates Clauses
to England or Ireland, or to a certificate to be oper- Acts."
ative in England or Ireland, The Companies Clauses 8 & 9 Vict.
Consolidation Act, 1845; and, so far as the same re- c. 16.
lates to Scotland, or to a certificate to be operative 8 & 9 Vict.
in Scotland, The Companies Clauses Consolidation c. 17.
(Scotland) Act, 1845; together with, in each case, 26 & 27 Vict.
The Companies Clauses Act, 1863: c. 118.

The term "the Railways Clauses Acts" means, so far as "Railways
the enactment in which that term is used relates Clauses
to England or Ireland, or to a certificate to be oper- Acts."
ative in England or Ireland, The Railways Clauses 8 & 9 Vict.
Consolidation Act, 1845; and, so far as the same c. 20.
relates to Scotland, or to a certificate to be opera- 8 & 9 Vict.
tive in Scotland, The Railway Clauses Consolidation c. 23.
(Scotland) Act, 1845; together with, in each case, 26 & 27 Vict.
The Railways Clauses Act, 1863: c. 92.

The term "Railway Bill" means a bill pending in or "Railway
intended to be introduced into either house of par- Bill."
liament, having for its object or one of its objects
to authorize the making of a railway:

The term "the Board of Trade" means the lords of "Board of
the committee for the time being of her majesty's Trade."
privy council appointed for the consideration of
matters relating to trade and foreign plantations.

Contracts for Lands.

3. Where promoters of a railway intend to apply, Power for
under this act, for authority to make the railway, they promoters of
and all parties seized or possessed of or entitled to lands railway and
required for the railway shall, in order to the purchase all persons
or taking and sale of those lands for the railway, have interested in
all such powers and capacities as, in order to the pur- land to enter
chase or taking and sale of lands required for an under- into provi-
taking authorized by a special act of parliament, are sional con-
conferred by the Lands Clauses Acts on the promoters of tracts for
the undertaking so authorized and on parties seized or land re-
27 & 28 VICT. c. 121. ii. quired.

27 & 28 VICT.
CAP. 121.

possessed of or entitled to lands, or any estate, right, or interest in lands, required for that undertaking; all which powers and capacities shall be enjoyed and may be exercised by the promoters, and by all such parties as aforesaid as fully and effectually in all respects as if the promoters had obtained a special act incorporating the Lands Clauses Acts, and authorizing them to make the railway, and to purchase or take the lands required for the same; subject, nevertheless, to the following restrictions and provisions; namely,

- (1.) Nothing herein shall confer on the promoters and parties aforesaid any of the powers or capacities conferred by the part of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement, or by the part of those acts with respect to the entry upon lands by the promoters of the undertaking, or by such provisions of those acts as provide for the determination or ascertainment of the amount of any purchase or compensation money, or the settlement of any apportionment or other matter, otherwise than by agreement, (except only as to such of those provisions as provide for the determination of the amount of compensation to be paid for enfranchisement of copyholds; and for the purposes of the present section, section 96 of The Lands Clauses Consolidation Act, 1845, relating to the enfranchisement of copyholds, shall be read and have effect as if the limitation of time therein contained were omitted therefrom):
- (2.) Any party under disability or incapacity, and not having power to sell and convey or release any lands, except under the Lands Clauses Acts, as applied by the present section, shall have capacity only to contract with the promoters for the sale of those lands, and shall not (before such a certificate of the board of trade, as is herein-after provided for, comes into operation) have capacity, further or otherwise than if this act had not been passed, to carry the contract into execution, or in pursuance thereof to convey or deliver possession of or release those lands:
- (3.) The promoters (before such a certificate as aforesaid comes into operation) shall be empowered by this act only to contract for lands, and they shall not have capacity, further or otherwise than if this act had not been passed, to take or hold lands.

4. Where lands required for the railway belong to or are enjoyed by her majesty the Queen, her heirs or successors, in right of the crown, or form part of the possessions of the duchy of Lancaster or of the duchy of Cornwall, any contract for the purposes of this act may be entered into in respect of those lands, as follows; namely,

27 & 28 VICT.
CAP. 121.

Contracts for sale of lands belonging to the crown or duchy of Lancaster or Cornwall.

In the first-mentioned case, by the commissioners of her majesty's woods, forests, and land revenues, or one of them, with the consent of the commissioners of her majesty's treasury;

In the secondly-mentioned case, by the chancellor of the duchy by writing under his hand attested by the clerk of the council of the duchy;

In the thirdly-mentioned case, by the duke of Cornwall or other the persons for the time being empowered to dispose for any purpose of lands of the duchy.

5. Notwithstanding anything in this act, it shall not be necessary for the promoters, before applying under this act for authority to make the railway, to enter into any contract with respect to any part of a turnpike road or public highway intended to be taken or used, or to be diverted or otherwise interfered with, for the purposes of the railway; but the board of trade before they settle a draft of such a certificate as herein-after provided for, shall be satisfied that due provision is made for the interests of the trustees or other persons having the management of every such road or highway, and for the safety and convenience of the public in relation thereto.

User of or interference with public or turnpike roads.

Application for Certificate.

6. When the promoters have contracted for the purchase of all the lands required for the railway, and are desirous of obtaining a certificate under this act, they shall proceed as follows; namely,

After land contracted for, power for promoters to apply for certificate, publish Notices, &c.

- (1.) They shall apply to the board of trade for a certificate under this act:
- (2.) They shall deposit maps, plans, sections, and books of reference, and an estimate of the expense of the construction of the railway, and lodge a draft of the certificate as proposed by them, according to the general rules under this act:
- (3.) They shall publish notice of the application according to such general rules.

7. As soon as conveniently may be after the time for completion of the required deposit and notice the board of trade shall proceed to inquire in such manner and to such extent as shall appear to them sufficient, whether

Consideration of application by board of trade.

27 & 28 VICT.
CAP. 121.

Board of
trade to
consider all
representa-
tions and ob-
jections.

On railway
or canal
company af-
fected giv-
ing notice
of opposition,
proceedings
before board
of trade to
cease.

Further pro-
ceedings to
be in parlia-
ment.

Power to
board of
trade to
settle cer-
tificate.

Insertion of
conditions in
certificate.
27 & 28 VICT. C. 121. v.

the promoters have contracted for the purchase of all the lands required for the railway, and to enquire whether the promoters have complied with the requirements of the general rules respecting deposit and notice.

8. The board of trade, before settling the draft of a certificate, shall take into consideration any representation made to them, and shall duly inquire into the merits of any objection brought before them, respecting the application.

Opposition of Railway or Canal Company to Under- taking.

9. If in any case any railway or canal company desire to be heard by counsel, agents, and witnesses against the proposed undertaking, and (within such time as is prescribed by general rules under this act) lodge at the office of the board of trade a notice in writing to that effect (herein-after referred to as a notice of opposition) in the form set forth in the schedule to this act (with such variations as circumstances require), in that case the board of trade, if the railway or canal company lodging the notice would be affected in any way by the proposed undertaking, shall not proceed on the application of the promoters.

10. Where the board of trade do not proceed on the application, they shall, not later in any year than the fifteenth day of February, if parliament is then sitting, and if not then within seven days after the next meeting of parliament lay before both houses of parliament a copy of the draft certificate lodged by the promoters and of the notice of opposition; and the promoters shall be at liberty to seek by way of bill in the same session, in such manner and on such conditions as the houses of parliament respectively by standing order or otherwise from time to time direct, such powers as were sought by them by way of certificate.

Settlement of Draft Certificate.

11. Where the board of trade proceed on the application, then on being satisfied that the promoters have contracted for the purchase of all the lands required for the railway, and have complied with the requirements of the general rules respecting deposit and notice, they may, if they think fit, settle a draft of a certificate certifying to the effect that the company, or persons therein specified, are authorized to make the railway therein described.

12. The board of trade may (subject to the provisions of this act) insert in the draft certificate such provisions,

as they, according to the circumstances of the case, deem necessary or proper for better effectuating the purposes of the certificate; and the same shall be deemed to all intents part of the certificate.

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CAP. 121.

13. The certificate may be in the form set forth in the schedule to this act, with such provisions as aforesaid.

Form of
certificate.

Submission of Draft Certificate to Houses of Parliament.

14. The board of trade shall lay the draft certificate settled by them before both houses of parliament, within seven days after the same is settled, if parliament is then sitting, and if not, then within seven days after the next meeting of parliament, but not later in any year than the first day of June.

Draft certificate to be laid before houses of parliament.

15. On the draft certificate being settled the promoters shall give notice thereof according to general rules under this act.

Notice thereof to be given.

16. If either house of parliament within six weeks after the draft of a certificate settled by the board of trade is laid before that house, resolves that the certificate ought not to be made, the same shall not be further proceeded with; and in that case all contracts for the purchase or taking of lands for the purposes of the undertaking shall cease to be binding on either party.

If either house resolve that certificate ought not to be made, it shall not be proceeded with.

Issue, Publication, and Effect of Certificate.

17. If neither house of parliament within the period aforesaid thinks fit to resolve that the certificate ought not to be made, then as soon as the period of six weeks after the laying of the draft certificate before both houses of parliament has expired, the board of trade may make and issue a certificate in conformity with such draft.

If neither house resolve that certificate ought not to be made, board of trade may issue the same.

18. The certificate shall be published in the London or Edinburgh or Dublin Gazette, respectively, if the railway will be situate wholly in England or Scotland, or in Ireland; and shall be published both in the London and in the Edinburgh Gazette, if the railway will be situate partly in England and partly in Scotland.

Publication of certificate in Gazette.

19. As from the time (not being prior to such publication) in the certificate prescribed, and if none is prescribed then as from the time of such publication, the certificate shall have the same force and operation, and shall be as absolutely valid and conclusive to all intents, as if the contents thereof (taken in conjunction with this act) had been expressly enacted by parliament; and the validity of the certificate shall not be impeached on account of any alleged informality in any court or elsewhere.

Operation of certificate as special act.

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CAP. 121.

Judicial
notice of
certificate.

Interpreta-
tion of cer-
tificate.

Cesser of
powers at
expiration
of prescri-
bed time.

Incorporation
of Lands
Clauses
Acts in cer-
tificate,
except pro-
visions
giving com-
pulsory
powers, &c.

In what
cases com-
pany shall
be incor-
porated.

In others,
company
may be in-
corporated.

20. The certificate shall be judicially noticed without being specially pleaded.

21. Terms used in the certificate shall have the same meanings as they have when used in this act.

Duration of Powers under Certificate.

22. If the company, or persons by the certificate empowered to make the railway do not within five years from the commencement of the operation of the certificate, or within any shorter period prescribed therein, complete the railway and open it for public traffic, then (subject to any provisions and qualifications in the certificate contained) all the powers and authorities given by the certificate shall, from and after the expiration of the time aforesaid, cease, except as to so much of the railway as is then completed.

Lands.

23. The Lands Clauses Acts shall be incorporated with the certificate (which shall for this purpose be deemed the special act) except as may be therein excepted, and except as to the following provisions; namely,

- (1.) With respect to the purchase and taking of lands otherwise than by agreement :
- (2.) With respect to the entry upon lands by the promoters of the undertaking :
- (3.) So much of those acts as provides for the determination or ascertainment of the amount of any purchase or compensation money, or the settlement of any apportionment or other matter, otherwise than by agreement (but excluding from this exception so much of those acts as provides for the determination of the amount of compensation to be paid for enfranchisement of copyholds).

Incorporation of Company.

24. Where the promoters are not a company incorporated (by special act, or by previous certificate under this act, and are seven or more in number, a company shall be incorporated by the certificate, for the purposes thereof.

25. Where the promoters are not a company incorporated by special act, or by previous certificate under this act, and are less than seven in number, a company may be incorporated by the certificate for the purposes thereof, if the promoters so desire.

26. Where the certificate incorporates a company, it shall contain proper provisions with apt terms for creating a body corporate, by an appropriate name, with perpetual succession and a common seal, and with power to take, hold, and dispose of lands and other property, for the purposes and subject to the restrictions of the certificate, and may confer on the company power to borrow on mortgage, and all other usual or proper powers.

27 & 28 VICT.
CAP. 121.

Power for board of trade to incorporate company by certificate.

27. In every such case, the Companies Clauses Acts shall be incorporated with the certificate (which shall be deemed the special act).

Incorporation of Companies Clauses Acts.

28. It shall not be lawful for any company empowered by a certificate under this act to issue any share created under the authority of the certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share is paid up in respect thereof.

Restriction as to issue of shares.

29. Every company, whether incorporated by special act or by certificate, empowered by a certificate to borrow money, shall, as regards the money so authorized to be borrowed, be subject to the following restrictions; namely,

Restrictions on company as to borrowing, &c

- (1.) They shall not exercise the said powers of borrowing any money until the whole of the share capital authorized by the certificate is subscribed for or taken, and until one half thereof is actually paid up, and until they prove to the justice who is to certify under section 40 of The Companies Clauses Consolidation Act, 1845, or (in Scotland) to the sheriff who is to certify under section 42 of The Companies Clauses Consolidation (Scotland) Act, 1845, as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares were taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matters the certificate of the justice or sheriff shall be sufficient evidence):
- (2.) They shall not borrow a larger sum in the whole than one third of the amount of the share capital authorized by the certificate;
- (3.) They shall not out of money raised under the 27 & 28 VICT. c. 121. viii.

27 & 28 VICT.
CAP. 121.

certificate by calls or borrowing pay interest or dividend to a shareholder on the amount of calls made on his shares, whether created under the certificate or otherwise; (but this provision shall not prevent them paying to a shareholder under the certificate such interest on money advanced by him beyond the amount of calls actually made, as is allowed by the Companies Clauses Acts):

- (4.) They shall not out of money so raised pay or deposit any money that may be required to be paid or deposited in relation to any application to parliament or the board of trade:
- (5.) They shall apply every part of the money so raised only for purposes for which it is by the certificate authorized to be applied.

Contracts by
promoters
binding on
company.

30. Contracts relative to the purchase or taking of lands for the railway, entered into by the promoters before the incorporation of the company by the certificate, shall be as binding on the company as if they had been entered into by the company.

Construction of Railway.

Incorporation of Railways Clauses Acts in certificate, except as to compulsory powers, &c.

31. The Railways Clauses Acts shall be incorporated with the certificate (which shall be deemed the special act), except as may be therein excepted, and except as to the following provisions; namely,

- (1.) Such of the provisions with respect to the construction of the railway and the works connected therewith as relate to the correction of errors and omissions in plans or to plans and sections of alterations:
- (2.) With respect to the temporary occupation of lands near the railway during the construction thereof:
- (3.) With respect to leasing the railway:
and subject to the following provisions; namely,
 - (1.) Nothing herein shall confer power for the taking or using of lands for deviation or for any other purpose, otherwise than by agreement:
 - (2.) Any provision referring to the datum line described in the section approved of by parliament shall be read as referring to the datum line described in the section approved of by the board of trade.

Restriction on alterations of plan or section.

32. Where the promoters desire to make any alteration in the deposited plan or section, they may do so with the consent of the board of trade; but the board of trade shall not settle a draft of a certificate without

being satisfied that all parties interested in lands liable to be affected by or in consequence of the alteration consent thereto.

27 & 28 VICT.
CAP. 121.

33. Every railway made under this act in England or Scotland shall be made on the gauge of four feet eight inches and half an inch, unless in any case the certificate prescribes the making of the railway on the gauge of seven feet or on both those gauges.

Provision
respecting
gauge.

Every railway made under this act in Ireland shall be made on the gauge of five feet three inches.

Provisions to secure Completion of Railway.

34. After the certificate is ready to be issued, and before the same is issued, by the board of trade, the promoters, unless they are a previously existing company possessed of a railway open for public traffic, shall, within such time as general rules under this act direct, pay as a deposit a sum of money not less than eight per centum on the amount of their estimate of the expense of the construction of the railway, as follows; namely,

Promoters
to deposit
eight per
cent. on
estimate in
court of
chancery,
&c.

Where the railway or any part thereof will be situate in England,—into the bank of England, in the name and with the privy of the accountant general of the court of chancery in England:

Where the railway will be situate wholly in Scotland,—either into the bank of England in manner aforesaid, or (at the option of the promoters) into a bank in Scotland established by act of parliament or royal charter, in the name and with the privy of the queen's remembrancer of the court of exchequer in Scotland:

Where the railway will be situate in Ireland,—into the bank of Ireland, in the name and with the privy of the accountant general of the court of chancery in Ireland.

35. The board of trade may issue their warrant to the promoters for such payment into court, which warrant shall be a sufficient authority for the persons therein named, or the majority or survivors of them, to pay the money therein mentioned into the bank therein mentioned, in the name and with the privy of the officer therein mentioned, and for that officer to receive the same, to be placed to his account there, *ex parte* the railway therein mentioned, according to the method (prescribed by statute, or general rules or orders of court, or otherwise,) for the time being in force respecting the payment of money into the said courts respectively, and without fee or reward.

Warrant of
board of
trade for
payment
into court.

27 & 28 Vict.
CAP. 121.

Liberty for
promoters to
bring in
exchequer
bills, &c.

Provision for
vacations in
offices of
courts.

Power for
court to
direct in-
vestment.

Interpreta-
tion of "de-
posit fund"
and "depo-
sitors" in
following
provisions.

Repayment
of deposit
on comple-
tion of rail-
way or on
terms.

36. Provided, that in lieu, wholly or in part, of the payment of money, the promoters may bring into court as a deposit an equivalent sum of bank annuities, or of any stocks, funds, or securities on which cash under the control of the respective court is for the time being permitted to be invested, or of Exchequer bills, (the value thereof being taken at the price at which the promoters originally purchased the same, as appearing by the broker's certificate of that purchase); and in that case the board of trade shall vary their warrant accordingly.

37. At any time when the office of the accountant general of the Court of Chancery in England or Ireland is closed, a deposit under this act may nevertheless be made, in such manner as general orders of the respective courts authorize and direct.

38. Where money is so paid into the court of chancery in England or Ireland, the court may, on the application of the persons named in the warrant of the board of trade, or of the majority or survivors of them, order that the same be invested in such stocks, funds, or securities as the applicants desire and the court thinks fit.

39. In the subsequent provisions of this act, the term "the deposit fund" means the money deposited, or the stocks, funds, or securities in which the same is invested, or the bank annuities, stocks, funds, securities, or exchequer bills deposited, as the case may be; and the term "the depositors" means the persons named in the warrant of the board of trade authorizing the deposit, or the majority or survivors of those persons, their executors administrators, or assigns.

40. The court in which the deposit is made shall, on the application of the depositors, order the deposit fund to be paid, transferred, or delivered out to the applicants, or as they direct, in any of the following events: namely,

- (1.) If, within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, the company, or persons thereby empowered to make the railway, complete it and open it for public traffic; or
- (2.) If, within the same time, they (being a company) prove to the satisfaction of the board of trade that one half of their nominal capital authorized by the certificate is paid up, and that they have expended a like amount for the purposes of the certificate; or
- (3.) If, at any time after the issuing of the certificate, they execute and deliver to the solicitor of her

majesty's treasury a bond with a surety or sureties (such bond being prepared to the satisfaction of, and such surety or sureties being approved by, the said solicitor) in a penal sum of twice the amount of the money required to be deposited, conditioned to the effect following, namely,—for payment to her majesty, her heirs or successors, of the amount of the money required to be deposited, if the company or persons empowered by the certificate do not, within the time aforesaid, either complete the railway and open it for public traffic, or (being a company) give such proof as aforesaid respecting their capital and expenditure.

27 & 28 VICT.
CAP. 121.

41. If the company, or persons empowered by the certificate to make the railway do not, within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, do one or other of the following things, namely,—

Forfeiture of
deposit on
non-comple-
tion of rail-
way, &c.

- (1.) complete the railway and open it for public traffic; or
- (2.) give (being a company) such proof as herein-before mentioned respecting their capital and expenditure; or
- (3.) execute and deliver such a bond as is herein-before described,—

then and in every such case the deposit fund shall, from and after the expiration of the time aforesaid, be forfeited to her majesty, and shall accordingly be paid, transferred, or delivered out to or for the account of her majesty's exchequer, in such manner as the court in which the deposit is made thinks fit to order, on the application of the solicitor of her majesty's treasury, on notice to such parties (if any) as the court thinks fit; and the deposit fund, when so paid, transferred, or delivered, or the proceeds thereof, shall be carried to and form part of the consolidated fund of the United Kingdom.

42. Where any such bond as aforesaid is given, the amount recovered thereon shall be paid to the account of her majesty's exchequer, and shall be carried to and form part of the said consolidated fund.

Application
of money
recovered on
bond.

43. The depositors shall be entitled to receive payment of the interest or dividends from time to time accruing on the deposit fund while in court; and the court in which the deposit is made may from time to time, on the application of the depositors, make such order as

Depositors
to receive
dividends
accruing
while fund
in court.

27 & 28 VICT. CAP. 121. seems fit respecting the payment of the interest or dividends accordingly.

Proofs as to capital and expenditure, execution of bond, &c.

44. The certificate of the board of trade that such proof as aforesaid respecting the capital and expenditure of any company has been given to the satisfaction of the board of trade, and the certificate of the solicitor of her majesty's treasury that such bond as aforesaid has in any case been prepared, executed, and delivered to his satisfaction, shall respectively be sufficient evidence of the matters therein certified.

Protection to board of trade in case of error, &c.

45. The issuing in any case of any warrant or certificate relating to deposit or to the deposit fund, or any error in any such warrant or certificate or in relation thereto, shall not make the board of trade, or the person signing the warrant or certificate on their behalf, in any manner liable for or in respect of the deposit fund, or the interest of or dividends on the same, or any part thereof respectively.

Mode of application to courts.

46. Any application under this act to the court of chancery in England or Ireland shall be made in a summary way in such manner as general orders of those courts respectively direct.

Power for courts to make general orders.

47. The lord chancellor of Great Britain with the advice and assistance of the lords justices of the court of appeal in chancery and the master of the rolls and the vice chancellors, or any two of those judges, and the lord chancellor of Ireland with the advice and assistance of the lord justice of the court of appeal in chancery in Ireland and of the master of the rolls in Ireland, may respectively from time to time make such general orders as seem fit for the regulation of the practice under this act of the court of chancery in England and Ireland respectively.

Penalty on company failing to open new railway in certain cases.

48. Where a certificate is obtained by a previously existing company possessed of a railway open for public traffic, then, if the company fail to complete the railway and open it for public traffic within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, the company shall be liable to a penalty of not less than twenty pounds and not exceeding fifty pounds for every day during which such failure continues, except only in respect of any time during which it appears from a certificate of the board of trade that the company were prevented from completing the railway or opening it for public traffic by unforeseen accident or circumstances beyond their control, but the want of sufficient funds shall not be deemed a circumstance beyond their control within the meaning of this provision.

Tolls and Charges for Use of Railway.

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CAP. 121.

49. The proprietors of the railway may demand and take, in respect of the railway, tolls and charges not exceeding the sums specified in the schedule to this act, subject and according to the regulations therein specified.

Tolls, &c. in
schedule.

50. The board of trade may nevertheless by the certificate vary the tolls and charges and regulations specified in the schedule to this act, or any of them, if in any case it seems to them necessary or proper, under the circumstances, to do so.

Power for
board of
trade to
vary tolls,
&c.

Application of General Railway Acts.

51. The enactments described in the schedule to this act, and any enactments amending, perpetuating, or otherwise affecting any of them, so far as the same are in force at the passing of this act, shall extend and apply, as the case may require, to the railway, and to the company or persons empowered by the certificate to make the railway, and shall in all respects operate in relation thereto respectively as if they were expressly repeated and re-enacted in this act, subject, nevertheless, and according to the following variations and provisions; namely,

Enactments
in schedule
applied to
the railway
and com-
pany, sub-
ject to varia-
tions.

- (1.) For the purposes and within the meaning of any of those enactments, the railway shall be deemed to be a railway made and constructed and carried on under the authority of parliament and under the powers and provisions of an act of parliament, and the certificate (taken in conjunction with this act) shall be deemed to be a special act of parliament regulating or relating to the railway, or the company, body, or persons empowered to make the same (as the case may require):
- (2.) Such of those enactments as refer to the time of the passing of an act of parliament for the construction of a railway, or to the last day of the session in which such an act is passed, shall respectively be read and have effect as referring to the time of the commencement of the operation of the certificate:
- (3.) The terms "company" and "railway company" used in any of those enactments shall respectively include any persons empowered by the certificate to make the railway:
- (4.) Such of those enactments as refer to the directors, or any director, or the secretary, chief or other clerk, accountant, treasurer, or other officer of a company, shall extend and apply to every or any

27 & 28 VICT.
CAP. 121.

- one of the persons (not being a company), empowered by the certificate to make the railway :
- (5.) Such of those enactments as refer to a writing under the common seal of the company shall be read and have effect as referring to a writing under the hand and seal of any one of such persons, as aforesaid :
 - (6.) Such of those enactments as impose any penalty or forfeiture, or any pecuniary liability or any obligation, on a company, or give any right, remedy, or process against a company, shall be read and have effect (so far as the nature and circumstances of the case admit) as imposing a like penalty, forfeiture, liability, or obligation on, or as giving a like right, remedy, or process against, every or any one of such persons, as aforesaid, but not so as to authorize the recovery of any penalty or forfeiture from, or the enforcement of any pecuniary liability against, more than one of such persons in respect of the same offence, matter, or thing :
 - (7.) The amount of any compensation to be made to the owners and occupiers of any lands for loss or injury or inconvenience sustained by them respectively by reason of any works done under the authority of any of those enactments shall, in case of dispute, be settled in manner directed by the Lands Clauses Acts and the Railways Clauses Acts as respectively applicable to the case :
 - (8.) Such of those enactments as provide for the case of the board of trade certifying that the public safety requires additional land to be taken by a company for the purpose of giving increased width to the embankments or inclination to the slopes of the railway, or for making approaches to bridges or archways, or for doing works for the repair or prevention of accidents or slips happening or apprehended to the cuttings, embankments, or other works of the railway, shall be read and have effect, as regards such portions of land as are mentioned in any certificate so given by the board of trade, as if compulsory powers of purchasing and taking lands had been contained in the certificate under this act authorizing the making of the railway, and the provisions of the Lands Clauses Acts and the Railways Clauses Acts relative to the compulsory purchase or taking of land had been incorporated with that certificate :

- (9.) If the railway is in any respect constructed contrary to the provisions of the certificate, or of this act, it shall be deemed to be constructed contrary to the provisions of any of those enactments applicable in the case : 27 & 28 VICT.
CAP 121.
- (10.) Nothing herein shall extend or make applicable, for the purposes of this act, to or in any one of the parts of the United Kingdom, any of those enactments not in force there independently of this act.

Miscellaneous.

52. Nothing in this act shall make it obligatory on the board of trade to settle a draft of a certificate in any case if it appears to the board of trade for any reason that the application of the promoters should not be complied with ; and in case the board of trade reject any application, all contracts for the purchase or taking of lands for the purposes of the undertaking shall cease to be binding on either party. Board of trade may reject the application.

53. Nothing in the certificate shall exempt the railway, or the company, or persons to whom it belongs, from the provisions of any general act of parliament relating to railways, or to the better audit of the accounts of railway companies, passed before or after the issuing of the certificate, or from any revision and alteration, under the authority of parliament, of the maximum tolls and charges allowed to be taken under the certificate. Saving for general acts, or revision of charges.

54. All the provisions of this act which relate to the making of a railway shall extend and apply, mutatis mutandis, to the making or executing of any work connected with or for the purposes of a railway (as distinguished from the construction of a railway). New works in connexion with railway.

55. Subject and according to the provisions of this act, the board of trade may, on a joint application or on two or more separate applications, issue a certificate empowering two or more companies, or persons, respectively, to jointly make or execute the whole, or to separately make or execute parts, of a work connected with or for the purposes of a railway, and to jointly or separately use the whole or parts thereof ; and all the provisions of this act which relate to the making of a railway, or the making or executing of a work, shall extend and apply to the making or executing of the whole and the separate parts of such work as last aforesaid ; and the form of the certificate may be adapted to the circumstances of the case. Power to authorize joint work.

56. Where the certificate is obtained by a previously Power to
27 & 28 VICT. c. 121. xvi.

27 & 28 VICT.
CAP. 121.

promoters,
being a
company, to
raise addi-
tional capi-
tal.

existing company incorporated by special act or by certificate, the certificate may authorize the company to raise, as capital, for the purposes of the certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the company, or as may be prescribed in the certificate, and with power to create and issue debenture stock.

In every such case the Companies Clauses Acts shall be incorporated with the certificate.

In every such case the restrictions by this act imposed on a company when originally incorporated by certificate, with respect to the exercise of their borrowing power and to the application of money raised under the certificate by calls or borrowing, shall extend and apply to such previously existing company in respect of such additional capital.

Where promoters are a company, approval of application by a meeting.

57. Where the certificate is obtained by a previously existing company incorporated by special act or by certificate, it shall be the duty of the board of trade not to settle a draft of the certificate without being satisfied that the members of the company have approved of the application to the board of trade, in like manner as, under the standing orders of either house of parliament for the time being in force, their approval of a railway bill would be required to be given in the same case.

Power to board of trade to amend or revoke certificate.

58. Subject and according to the restrictions and provisions of this act, the board of trade, on the application of any company or persons empowered by a certificate, may from time to time amend, extend, or vary by certificate the previous certificate, and may by certificate revoke the previous certificate.

Power to correct error.

59. If in any case it is made to appear to the board of trade that any error has been committed in a certificate or in relation thereto, the board of trade may, subject and according to the restrictions and provisions of this act, on the application of any company, body, or person affected by the error, and on notice to the company or persons empowered by the certificate, correct the error by a further certificate.

Proof of certificate.

60. A copy of the London, Edinburgh, or Dublin Gazette containing a certificate or a copy of a certificate, purporting to be printed by the printers of the London, Edinburgh, or Dublin Gazette, shall be conclusive evidence of the certificate, and of the due publication thereof, without any proof of the Gazette, or without any proof of the copy having been in fact so printed, as the case may be.

61. The company or persons empowered by a certificate shall at all times keep at their head office copies of the certificate printed by the printers of the Gazette or one of the Gazettes in which the same was published, in such form as general rules under this act direct, to be sold to all persons desiring to buy the same, at a price not exceeding one shilling for each copy.

27 & 28 VICT
CAP. 121.
Copies of
certificate
for sale.

If any company or persons fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred.

62. Penalties under this act or under a certificate, the recovery and application whereof are not otherwise provided for, shall be recovered and applied as penalties under the Railways Clauses Acts are recoverable and applicable.

Recovery
and applica-
tion of pe-
nalties.

63. The act of the session of the seventh year of king William the fourth and the first year of her majesty, (chapter eighty-three,) "to compel Clerks of the Peace and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament," shall apply to documents required to be deposited by general rules under this act.

As to
custody of
documents
under
7 W. 4. &
1 Vict. c. 83.

64. The general rules under this act shall in the first instance be those set forth in the schedule to this act; and the board of trade may from time to time, for the better execution of this act, make general rules adding to, altering, or revoking any general rules for the time being in force under this act; but any general rules so made by the board of trade shall not have effect unless and until they are laid before both houses of parliament, and if either house of parliament, within six weeks after the same are laid before that house, thinks fit to resolve that the same or any part thereof ought not to take effect, the same or that part thereof (as the case may be) shall not take effect; otherwise all rules made by the board of trade under the present section shall be of the same force and effect as if they had been comprised in the schedule to this act.

General
rules in
schedule
with power
for amend-
ment.

All general rules which are to take effect under the present section shall be published in the London, Edinburgh, and Dublin Gazettes.

65. Not later than the first day of July in each year the board of trade shall lay before both houses of parliament a report respecting the applications to and proceedings of the board of trade under this act during the year then last past.

Annual
report to
parliament
by board of
trade.

27 & 28 VICT. c. 121. xviii.

The SCHEDULE referred to in the foregoing Act.

(i.)—NOTICE OF OPPOSITION.

In the matter of
The Railways Construction Facilities Act, 1864,
and

The (proposed) Railway.

We, the railway [or canal] company hereby declare and give notice that we desire to be heard by counsel, agents, and witnesses against the above-mentioned proposed undertaking.

Dated this day of , 18

Witness, A.B.

L. S.

(ii.)—FORM OF CERTIFICATE OF BOARD OF TRADE.

The Railway.

Certificate of the board of trade for the construction of the railway.

Whereas the promoters of the railway have contracted for the purchase of the lands required for the railway and the works connected therewith, and have complied with the requirements of The Railways Construction Facilities Act, 1864:

Now, therefore, the board of trade do, by this their certificate, in pursuance of the said act, and by virtue and in exercise of the powers thereby in them vested, and of every other power enabling them in this behalf, certify as follows:

[Here are to follow the provisions of the certificate showing the powers conferred and the terms and conditions (if any) imposed.]

The board of trade,

Whitehall.

Dated this

day of

(Signed) C.D.

Secretary to the board of trade.

(iii).—TOLLS AND CHARGES.

TABLE I.

Maximum Charges for Use of Railway and Supply of Carriages, Waggon, or Trucks.

	For use of railway, per mile.	For supply of carriage, waggon, or truck by the proprietors of the railway, the additional sum per mile of
Passengers :—		
For every person	Twopence.	One penny.
Animals :—		
For every horse, ass, mule, or other beast of draught or burden (Class 1.)	Threepence.	One penny.
For every ox, cow, bull, or head of neat cattle (Class 2.)	Twopence.	One penny.
For every calf, pig, sheep, lamb, and other small animal (Class 3.)	Three Farthings.	One Farthing.
Goods (except as provided for in Table IV.) :—		
For cotton and other wools, manufactured goods, drugs, fish, and all other wares, merchandise, articles, matters, or things not enumerated in any other class (Class 4.) per ton	Threepence.	One penny.
For sugar, grain, corn, flour, hides, dyewoods, earthenware, timber, staves, deals, and metals (except iron), nails, anvils, vices, chains, and light iron castings (Class 5.) per ton	Twopence Halfpenny.	One penny.
For coke, charcoal, pig iron, bar iron, rod iron, sheet iron, hoop iron, plates of iron, wrought iron, heavy iron castings, railway chains, slabs, billets, and rolled iron, lime, bricks, tiles, slates, salt, fireclay and stone (Class 6.) per ton	Three Halfpence.	One penny.
For dung, compost, manure, undressed material for repair of public roads or highways, coals, culm, cinders, cannel, ironstone, iron ore, limestone, clay (except fireclay) chalk, sand, and slag, (Class 7.) per ton	Five Farthings.	One Halfpenny.
For every carriage of whatever description conveyed on a truck or platform belonging to the proprietors of the railway (Class 8.) :—		
If not weighing more than one ton	Sixpence.	
If weighing more than one ton, then for the first ton	Sixpence.	
And for every additional quarter of a ton, or fractional part of a quarter of a ton, above the first ton	Three Halfpence.	

TABLE II.

Maximum Charges for Supply of Locomotive Power.

For the use of engines for propelling carriages on the
 railway, for every passenger, animal, and ton of
 goods per mile one penny.

TABLE III.

Maximum total Charges for Use of Railway and Supply of Carriages, Waggons, or Trucks, and Supply of Locomotive Power, and every other Expense incidental to Conveyance of Passengers, Animals, or Goods along the Railway.

Passengers :—			Per Mile.
For every person conveyed in a first-class carriage			Threepence.
"	"	second-class "	Twopence.
"	"	third-class "	Five farthings.
Animals :—			
For every animal in class 1.			Fourpence.
"	Class 2.		Threepence.
"	Class 3.		Three halfpence.
Goods :—			
For every thing in Class 4.			Fourpence.
"	Class 5.	per ton	Threepence.
"	Class 6.	per ton	Twopence.
"	Class 7.	per ton	Three halfpence.
For every carriage in Class 8.			The charge specified in Table I.

TABLE IV.

Maximum Charges for small Packages and single Articles of great Weight.

Small packages :—		
For every parcel	not exceeding seven pounds in weight	Sixpence.
"	exceeding seven pounds, but not exceeding fourteen pounds, in weight	Eightpence.
"	exceeding fourteen pounds, but not exceeding twenty-eight pounds, in weight	One shilling.
"	exceeding twenty-eight pounds, but not exceeding fifty-six pounds, in weight	} One shilling & threepence.
"	exceeding fifty-six pounds, but not exceeding five hundred pounds, in weight, for the first fifty-six pounds	
		One shilling.

And for every additional fifty-six pounds, or fractional part of fifty-six pounds, above the first fifty-six pounds . . .

Sixpence.

Single articles of great weight :—

For every boiler, cylinder or single piece of machinery, timber or stone, or other single article :

If weighing (inclusive of the carriage) more than four but not more than eight tons, sixpence per ton per mile.

If weighing (inclusive of the carriage) more than eight tons, such sum as the proprietors of the railway think fit.

REGULATIONS.

1. For passengers, animals, or goods conveyed on the Short distance railway for a distance less than that prescribed in the certificate as the short distance, and if none is prescribed then for a distance less than six miles, charges are to be payable as for the short distance prescribed, and if none is prescribed then as for six miles.

2. In respect of passengers, every fraction of a mile beyond an integral number of miles is to be deemed a mile. Fraction of mile; passengers.

3. In respect of animals and goods, for a fraction of a mile beyond the short distance prescribed, or if none is prescribed then beyond six miles, or beyond any greater number of miles, charges are to be payable in proportion to the number of quarters of a mile contained in that fraction; and a fraction of a quarter of a mile is to be deemed a quarter of a mile. Fraction of mile; animals and goods.

4. For a fraction of a ton charges are to be payable according to the number of quarters of a ton in that fraction; and a fraction of a quarter of a ton is to be deemed a quarter of a ton. Fraction of ton.

5. Every passenger travelling on the railway may, without charge, cause to be carried in the same train with him his ordinary luggage, not exceeding the weight prescribed in the certificate, and if none is prescribed then not exceeding the weight of one hundred and twenty pounds for a first-class passenger. One hundred pounds for a second-class passenger, and sixty pounds for a third-class passenger. Passengers luggage.

6. The restriction as to charges for passengers does not extend to special trains when required by passengers, but applies only to the ordinary or express passenger or goods trains appointed by the proprietors of the railway. Special trains.

7. Except as to stone and timber, weight is to be determined according to avoirdupois weight. Determination of weight.

Fourteen cubic feet of stone, and forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any

- other timber, are to be deemed one ton, and so in proportion for any smaller quantity.
- Terminal station charges.** 8. In addition to the charges in Table III., a reasonable charge is to be payable for the loading, covering, and unloading of goods at any station, being a terminal station in respect of such goods, and for delivery and collection, and any other services incidental to the duty or business of a carrier, where such services, or any of them, are or is performed by the proprietors of the railway.
- A station is not to be considered a terminal station in respect of goods, unless they are received there direct from the consignor, or are directed to be delivered there to the consignee.
- Small packages.** 9. The term small packages does not include articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like: but applies only to single parcels in separate packages.
- Agreement for higher charges.** 10. Nothing herein or in the certificate contained is to prevent the proprietors of the railway from taking any charge over and above the charges herein-before limited for the conveyance of goods of any description by agreement with the owners of or any persons in charge of such goods, either in respect of the conveyance thereof (except small packages) by passenger trains, or by reason of any other special service performed by the proprietors of the railway in relation thereto.

(iv).—ENACTMENTS IN GENERAL ACTS RELATING TO RAILWAYS APPLIED TO RAILWAYS UNDER THIS ACT.

Session and Chapter, and Section (if any).	"Title or Short Title of Act."
1 & 2 Vict. c. 80.—	"An act for the payment of constables for keeping the peace near public works."
1 & 2 Vict. c. 98.—	"An act to provide for the conveyance of the mails by railways."
2 & 3 Vict. c. 45.—	"An act to amend an act of the fifth and sixth years of the reign of his late majesty king William the Fourth relating to highways."
3 & 4 Vict. c. 97.—	"An act for regulating railways."
5 & 6 Vict. c. 55.—	"An act for the better regulation of railways, and for the conveyance of troops."
5 & 6 Vict. c. 79, ss. 2 to 7 (both inclusive), and ss. 24, 25, 26.—	"An Act to repeal the duties payable on stage carriages, and on passengers conveyed upon railways, and certain other stamp duties in Great Britain, and to grant other duties in lieu thereof; and also to amend the laws relating to stamp duties."
7 & 8 Vict. c. 85.—	"An act to attach certain conditions to the construction of future railways authorized or to be authorised by any act of the present or succeeding sessions of parliament, and for other purposes relating to railways."
27 & 28 VICT. C. 121.	xxiii.

- 8 & 9 Vict. c. 3.—“An act for the appointment of constables or other officers for keeping the peace near public works in Scotland.”*
- 8 & 9 Vict. c. 46.—“An act for the appointment of additional constables for keeping the peace near public works in Ireland.”
- 9 & 10 Vict. c. 57, ss. 4, 6, 7, 8.—“An act for regulating the gauge of railways.”
- 10 & 11 Vict. c. 85, s. 16.—“An act for giving further facilities for the transmission of letters by post, and for the regulating the duties of postage thereon, and for other purposes relating to the post office.”
- 14 & 15 Vict. c. 64.—“An act to repeal the act for constituting commissioners of railways.”
- 17 & 18 Vict. c. 31.—“The Railway and Canal Traffic Act, 1854.”
- 18 & 19 Vict. c. 122, s. 6.—“An act to amend the laws relating to the construction of buildings in the metropolis and its neighbourhood.”
- 20 & 21 Vict. c. 31, s. 4.—“An act to amend and explain the Inclosure Acts.”
- 21 & 22 Vict. c. 75.—“An act to amend the laws relating to cheap trains, and to restrain the exercise of certain powers by canal companies, being also railway companies.”
- 22 & 23 Vict. c. 59.—“Railway Companies Arbitration Act, 1859.”
- 26 & 27 Vict. c. 38, ss. 13, 14.—“An act for granting to her majesty certain duties of inland revenue, and to amend the laws relating to the inland revenue.”
- 26 & 27 Vict. c. 112, s. 32.—“The Telegraph Act, 1863.”

* [This Act (the 8 & 9 Vict. c. 3) was repealed by the 20 & 21 Vict. c. 72, s. 9; the existing enactment is the 21 & 22 Vict. c. 85.]

(v).—GENERAL RULES.

FORM OF APPLICATION.

1. The application to the board of trade for a certificate is to be made by a memorial in writing, signed by the promoters, or some or one of them, and lodged at the office of the board of trade.
2. Together with the memorial the promoters are to lodge—
 - (a.) A printed draft of the certificate as proposed by the promoters:
 - (b.) An estimate of the expense of the construction of the proposed new railway or work (if any), signed by the person making the estimate.

PLANS, SECTIONS, &c.

3. Maps, plans, sections, and books of reference deposited by the promoters are to be such, in respect of scale and contents and otherwise, as, under the standing orders of either house of parliament for the time being in force, they would be obliged to deposit if they were proceeding in the same case by a railway bill.

4. The maps, plans, sections, and books of reference aforesaid are to be deposited at the office of the board of trade at the time when the memorial is lodged there.

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5. They are also to be deposited for public inspection at the same offices of the clerks of the peace or sheriff clerks, at which, under the standing orders aforesaid, the promoters would be obliged to deposit them if they were proceeding in the same case by a railway bill.

6. Where any part of the railway will be situate within the limits of the metropolis, as defined by The Metropolis Management Act, 1855, a copy of so much of the plans and sections as relates to that part is to be deposited at the office of the metropolitan board of works.

7. A copy of so much of the plans and sections as relates to each parish in which any part of the railway will be situate, or in which any lands intended to be taken for the railway are situate, together with a copy of so much of the book of reference as relates to that parish, is to be deposited for public inspection with the officer or person with whom, under the standing orders aforesaid, the promoters would be obliged to deposit the same if they were proceeding in the same case by a railway bill.

ADVERTISEMENTS AS TO APPLICATION.

8. After all the deposits aforesaid have been made, notice of the application to the board of trade is to be given by advertisement published as follows, namely :—

Where the railway will be situate wholly in one county, city, or town, or county of a city or town, then once in each of three successive weeks in some one and the same newspaper of that county, city, or town, or county of a city or town :

Where the railway will not be situate wholly in one county, city, or town, or county of a city or town, then once in each of three successive weeks in some one and the same newspaper of the county, city, or town, or county of a city or town, wherein the head office of the promoters is situate, and also once in each of three successive weeks in some one and the same newspaper of each county, city, or town, or county of a city or town, wherein any part of the railway will be situate :

If in any case there is not any such newspaper as herein-before described, then in like manner in a newspaper of some adjoining or neighbouring county :

In every case, once at least in the London, Edinburgh, or Dublin Gazette, respectively, if the railway will be situate wholly in England or Scotland, or in Ireland ; and both in the London and in the Edinburgh Gazette, if the railway will be situate partly in England and partly in Scotland.

9. The advertisements are to be published either in the month of June or in the month of November and not at any other time.

10. Each advertisement is to give the address of an office in London where copies of the draft certificate will be supplied as herein-after directed.

11. Each advertisement is to state that all persons desirous of making any representation to the board of trade, or of bringing before them any objection, respecting the application, may do so by letter addressed to the secretary of the board of trade, on or before the first day of August or first day of January next succeeding the date of the
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advertisement, according as the same is published in the month of June or in the month of November.

DEPOSIT OF COPIES OF ADVERTISEMENTS.

12. Within one week after the publication of the latest advertisement, a copy of each of the newspapers and gazettes containing the several advertisements is to be lodged at the office of the board of trade.

13. Within the same time, a printed copy of the gazette advertisement is to be deposited for public inspection in each of the same offices, and with each of the same officers and persons, in which or with whom the maps, plans, sections, and books of reference or parts thereof were deposited.

14. The last-mentioned deposit of a copy of the gazette advertisement may be made (if the promoters choose) by means of a registered post letter, and any deposit so made shall be deemed made on the day on which such letter would be delivered in ordinary course of post.

NOTE OF TIME OF DEPOSIT.

15. Where any document is deposited under these rules for public inspection, the clerk of the peace, sheriff clerk, or other officer or person, in whose office or with whom it is deposited, is to make thereon a memorial in writing denoting the time at which it was deposited.

NOTICE TO ROAD TRUSTEES.

16. Where any part of a turnpike road or public highway is intended to be taken or used, or to be diverted or otherwise interfered with, for the purposes of the railway, the promoters in the month of June or November (as the case may be) in which the advertisements are published are to serve notice of the application on the trustees or other persons having the management of such road or highway.

NOTICE OF OPPOSITION.

17. Notice of opposition by a railway or canal company is to be lodged at the office of the board of trade, not later than the first day of August or first day of January next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

NOTICE OF SETTLEMENT OF DRAFT CERTIFICATE.

18. On the draft certificate being settled by the board of trade, the promoters are to serve a copy thereof, with a notice that the draft has been settled by the board of trade, on every company, body, or person, by whom any representation or objection respecting the application was made to or brought before the board of trade, and are also to give by advertisement or otherwise such public or other notice (if any) thereof, as according to the circumstances of the case the board of trade direct.

SUPPLY OF COPIES OF DRAFT CERTIFICATE.

19. From the time of the publication of the first advertisement the promoters are to keep in the office mentioned in this behalf in the advertisement, a sufficient number of copies of the draft of the certificate as proposed by them, and are to furnish there copies to all persons applying for them at the price of not more than sixpence each.

20. From the time of the settlement of the draft certificate by the board of trade, the promoters are to keep in the office aforesaid copies of the draft supplied to them for that purpose by the board of trade, and are to furnish there copies thereof to all persons applying for them at such price (if any) as the board of trade from time to time direct.

DEPOSIT OF MONEY.

21. The deposit of money or government securities in court is to be made within one month after notice from the board of trade that they are prepared to issue the certificate.

PRINTING OF CERTIFICATE.

22. Copies of the certificate printed by the printers of a gazette are to be printed on ordinary white folio paper, similar in size to the paper on which the public general acts of parliament are printed for public sale.

IRISH BANKRUPT AND INSOLVENT AMENDMENT, 1865.

28 & 29 Vict. Cap. 21. An Act to amend the Irish Bankrupt and Insolvent Act, 1857.

[9th May, 1865.]

WHEREAS it is expedient to provide that railway companies incorporated by act of parliament shall not be liable to be adjudicated bankrupt: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

1. From and after the passing of this act, no railway company incorporated by act of parliament shall be liable to be made bankrupt under the Irish Bankrupt and Insolvent Act, 1857, and the provisions of the said act which relate to the bankruptcy of joint stock companies shall not apply to railway companies so incorporated as aforesaid.

No railway company incorporated by parliament liable to be made bankrupt under 20 & 21 Vict. c. 60

2. Nothing herein contained shall affect any adjudication of the bankruptcy of any such railway company made or to be made on any petition for adjudication presented on or before the first day of April one thousand eight hundred and sixty-five, or the proceedings thereunder; it being, however, hereby declared, that no person, company, or body corporate, by reason of his or their being a shareholder or shareholders of any railway company made bankrupt under any such adjudication of bankruptcy, is or shall be liable to pay or contribute any sum beyond the extent of his or their shares in the capital of the company not paid up at the time of such adjudication.

Not to affect any adjudication of bankruptcy already made.

3. This act may be cited for all purposes as The Irish Bankrupt and Insolvent Amendment Act, 1865.

Short title.

4. This act shall extend to Ireland only.

To extend to Ireland only.

PRIVATE BILL COSTS, 1865.

28 & 29 Vict. Cap. 27. An Act for awarding Costs
in certain cases of Private Bills.

[26th May, 1865]

WHEREAS it is expedient to empower committees of both houses of parliament on private bills to award costs in certain cases: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

When committee report "Preamble not proved," opponents to be entitled to recover costs.

1. When the committee on a private bill shall decide that the preamble is not proved, or shall insert in such bill any provision for the protection of any petitioner, or strike out or alter any provision of such bill for the protection of such petitioner, and further unanimously report, with respect to any or all of the petitioners against the bill, that such petitioner or petitioners has or have been unreasonably or vexatiously subjected to expense in defending his or their rights proposed to be interfered with by the bill, such petitioner or petitioners shall be entitled to recover from the promoters of such bill his or their costs in relation thereto, or such portion thereof as the committee may think fit, such costs to be taxed by the taxing officer of the house as herein-after mentioned, or the committee may award such a sum for costs as they shall think fit, with the consent of the parties affected.

When committee report unanimously "Opposition unfounded," promoters to be entitled to recover costs.

2. When the committee on a private bill shall decide that the preamble is proved, and further unanimously report that the promoters of the bill have been vexatiously subjected to expense in the promotion of the said bill by the opposition of any petitioner or petitioners against the same, then the promoters shall be entitled to recover from the petitioners, or such of them as the committee shall think fit, such portion of their costs of the promotion of the bill as the committee may think fit, such costs to be taxed by the taxing officer of the house as herein-after mentioned, or such a sum for costs as the committee shall name, with the consent of the parties affected; and in their report to the house the committee shall state what portion of the costs, or what sum for

costs, they shall so think fit to award, together with the names of the parties liable to pay the same and the names of the parties entitled to receive the same: provided always, that no landowner who bona fide at his own sole risk and charge opposes a bill which proposes to take any portion of the said petitioner's property for the purposes of the bill shall be liable to any costs in respect of his opposition to such bill.

28 & 29 VICT.
CAP. 27.

Provide.

3. On application made to the taxing officer of the house by such promoters or petitioners, or by their solicitors or parliamentary agents, not later than six calendar months after the report of such committee, and in cases where no sum shall have been named by the committee, with the consent of the parties affected, not until one month after a bill of such costs shall have been delivered to the party chargeable therewith, which bill shall be sealed with the seal or subscribed with the proper hand of the parties claiming such costs, or of their solicitor or parliamentary agent, the taxing officer shall examine and tax such costs, and shall deliver to the parties affected, or either or any of them, on application, a certificate signed by himself expressing the amount of such costs, or in cases where a sum for costs shall have been named by the committee, with the consent as aforesaid, such sum as shall have been so named, with the name of the party liable to pay the same, and the name of the party entitled to receive the same, and such certificate shall be conclusive evidence as well of the amount of the demand as of the title of the party therein named to recover the same from the party therein stated to be liable to the payment thereof; and the party claiming under the same shall, upon payment thereof, give a receipt at the foot of such certificate, which shall be a sufficient discharge for the same.

Costs to be
taxed.

4. All powers given to the taxing officer by the acts ten and eleven Victoria, chapter sixty-nine, and twelve and thirteen Victoria, chapter seventy-eight, with reference to the examination of parties and witnesses on oath, and with reference to the production of documents, and with reference to the fees payable in respect of any taxation, shall be vested in the taxing officer for the purposes of this act.

Powers of
taxing
officer.
10 & 11 Vict.
c. 69.
12 & 13 Vict.
c. 78.

5. The party entitled to such taxed costs, or such sum named by the committee, with such consent as aforesaid, or his executors or administrators, may demand the whole amount thereof, so certified as above, from any one or more of the persons liable to the payment thereof, and in case of nonpayment thereof on demand may recover the same by action of debt in any of her majesty's courts of record at Westminster or Dublin, or by action in the

Recovery of
costs when
taxed.

28 & 29 VICT. c. 27. ii.

28 & 29 VICT.
CAP. 27.



Form of
action in
Scotland.

Persons pay-
ing costs
may recover
a proportion
from other
persons
liable
thereto.

When com-
mittee report
"Preamble
not proved,"
promoters to
pay costs out
of deposits.
9 & 10 Vict.
c. 20.

Definition of
promoters.

court of session in Scotland. In such action it shall be sufficient, in England or Ireland, for the plaintiff to declare that the defendant is indebted to him in the sum mentioned in the said certificate; and the said plaintiff shall, upon filing the said declaration, together with the said certificate and an affidavit of such demand as aforesaid, be at liberty to sign judgment as for want of plea by nil dicit, and take out execution for the said sum so mentioned in the said certificate, together with the costs of the said action, according to due course of law: provided always, that the validity of such certificate shall not be called in question in any court.

6. In such action it shall be sufficient, in Scotland, for the pursuer to allege that the defender is indebted to him in the sum mentioned in the said certificate, under the like proviso in regard to the validity of the certificate.

7. In every case it shall be lawful for any person from whom the amount of such costs or sum named by the committee with consent as aforesaid has been so recovered to recover from the other persons, or any of them, who are liable to the payment of such costs or sum named by the committee with consent as aforesaid a proportionate share thereof, according to the number of persons so liable, and according to the extent of the liability of each person.

8. In any case in which the committee shall have reported that the preamble is not proved, and where, in accordance with the standing orders of either house of parliament and of an act of the ninth year of her present majesty, chapter twenty, a deposit of money or stock is made with respect to the application to parliament for an act, the money or stock so deposited shall be a security for the payment by the promoters of the bill for the act of all costs or sums in respect of costs, if any, payable by them under this act; and every party entitled to receive any costs or sum so payable shall accordingly have a lien available in equity for the same on the money or stock so deposited, and the lien shall attach thereon at the time when the bill is first referred to a committee of either house of Parliament; provided that where several parties have the lien for an amount exceeding in the aggregate the net value of the money or stock, their respective claims shall proportionately abate.

9. When a bill is not promoted by a company already formed, all persons whose names shall appear in such bill as promoting the same, and in the event of the bill passing the company thereby incorporated, shall be deemed

to be promoters of such bill for all the purposes of this ^{28 & 29 VICT.} act. ^{CAP. 27.}

10. For the purposes of this act the expression private ^{Meaning of} bill shall extend to and include any bill for a local and private bill personal act.

11. That this act shall not take effect before the first ^{Commence-} day of November one thousand eight hundred and sixty- ^{ment of act.} five.

CARRIERS ACT AMENDMENT, 1865.

28 & 29 VICT. cap. 94. An Act to Amend the
Carriers Act. [5th July, 1865.]

BE it enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

The term
"Lace" in
11 G. 4 & 1
W. 4. c. 68.
not to
include
machine-
made lace.

1. In the Carriers Act (that is to say, the act of the session held in the eleventh year of the reign of king George the Fourth and the first year of the reign of king William the Fourth, chapter sixty-eight, "for the more effectual protection of mail contractors, stage coach proprietors, and other common carriers for hire, against the loss of or injury to parcels or packages delivered to them for conveyance or custody, the value and contents of which shall not be declared to them by the owners thereof,") the term "lace" shall, with respect to any parcel or package delivered after the commencement of this act, be construed as not including machine-made lace.

Commence-
ment of act.

2. This act shall commence from and immediately after the thirtieth day of September one thousand eight hundred and sixty-five.

Short title.

3. This act may be cited as The Carriers Act Amendment Act, 1865.

CATTLE DISEASES PREVENTION, 1866.

29 & 30 VICT. Cap. 2. An Act to amend the Law relating to Contagious or Infectious Diseases in Cattle and other Animals [so far as relates to Railways]. [20th February, 1866.]

WHEREAS it is expedient to amend the law relating to contagious or infectious diseases in cattle and other animals:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

1. This act shall be cited for all purposes as "The Cattle Diseases Prevention Act, 1866." Short title of act.
2. This act shall not apply to Ireland. Application of act.

PART I.—TEMPORARY PROVISIONS.

11. Part I. of this act shall continue in force till the fifteenth day of April one thousand eight hundred and sixty-six, and no longer, unless continued or renewed by order of her majesty, in council; and it shall be lawful for her majesty, by order in council, from time to time to continue, or to renew if expired, all or any of the provisions in this part of this act contained for such time, as is specified in such order. Limit of Duration of Part I.

Movement of Cattle.

17. All cattle brought by sea from any place in Great Britain or from any place out of the United Kingdom into any town or place in Great Britain shall be marked by clipping the hair off the end of the tail, and no such cattle shall be removed alive from such town or place except by sea. Regulations as to movement of cattle.

No cattle shall be moved on any railway before the twenty-fifth day of March one thousand eight hundred and sixty-six. Railways.

34. This Act shall continue in force until the first day of June one thousand eight hundred and sixty-seven, and until the end of the then session of Parliament, and no longer, except in so far as respects the power of levying rates for repaying any sums borrowed under the provisions of this act: provided that it shall be lawful for her majesty in council at any time to suspend the operation of this act as respects the slaughter of cattle. Continuance of act.

29 & 30 VICT. C. 2.

TELEGRAPH ACT AMENDMENT, 1866.

29 & 30 Vict. Cap. 8. An Act to amend the
Telegraph Act, 1863. [6th March, 1866.]

BE it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Powers vested in secretary of state under sect. 53 of 26 & 27 Viet. c. 112. may be exercised by lord lieutenant of Ireland.

1. The powers vested in one of her majesty's principal secretaries of state by section fifty-two of The Telegraph Act, 1863, may be exercised in Ireland by the lord lieutenant or other chief governor or governors of Ireland for the time being, as well as by one of her majesty's principal secretaries of state, subject, with respect to compensation, and in all other respects, to the provisions in that section contained.

Where such powers are exercised, sect. 51 of above-recited act to be altered as to Ireland.

2. Where the powers of section fifty-two of the said act are exercised by the lord lieutenant or other chief governor or governors of Ireland, then and in every such case, in section fifty-one of the same act, the lord chief justice of her majesty's court of common pleas in Dublin shall be deemed to be substituted for the lord chief justice of her majesty's court of common pleas at Westminster.

Extension of sects. 48 to 53 of above-recited act to all Companies.

3. The provisions of the following sections of the said act, namely, sections forty-eight to fifty-one (both inclusive), section fifty-two as amended by this act, and section fifty-three, shall extend and apply to all incorporated companies, existing or future, constituted with the object of carrying on the business of constructing, maintaining, or working telegraphs, and to the works of those companies.

Short title.

4. This act may be cited as The Telegraph Act Amendment Act, 1866.

LABOURING CLASSES DWELLING HOUSES, 1866.

29 & 30 Vict. Cap. 28. An Act to enable the Public Works Loan Commissioners to make Advances towards the Erection of Dwellings for the Labouring Classes (so far as relates to Railways). [18th May, 1866.]

1. THIS act may be cited as The Labouring Classes Short title. Dwelling Houses Act, 1866.

4. For the purpose hereinafter mentioned, the public works loan commissioners, as defined by the said act of the twenty-fourth and twenty-fifth years of her majesty, may out of the funds for the time being at their disposal from time to time advance on loan to any such local or other authority as hereinafter mentioned, namely (inter alia), Authorities and persons to whom loans may be made.

Any railway company, or dock or harbour company, Railway company. or any other company, society, or association established for the purposes of this act or for trading or manufacturing purposes ;

Any private person entitled to any land for an estate in fee simple, or for any term of years absolute, whereof not less than fifty years shall for the time being remain unexpired ;

And any such local or other authority, or any such body or proprietor, may from time to time borrow from the public works loan commissioners such money as may be required for the purpose of this act, subject and according to the following provisions :

1. Such advance on loan shall be made for the purpose of assisting in the purchase of lands and buildings, or in the erection, alteration, and adaptation of buildings to be used as dwellings for the labouring classes, and in providing all conveniences which may be deemed proper in connexion with such dwellings : Objects of loans.

2. Any such advance may be made whether the local or other authority or body or proprietor receiving the same has or has not power to borrow on mortgage or otherwise, independently of this

PRIVATE BILL COSTS, 1865.

28 & 29 Vict. Cap. 27. An Act for awarding Costs in certain cases of Private Bills.

[26th May, 1865.]

WHEREAS it is expedient to empower committees of both houses of parliament on private bills to award costs in certain cases : be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :

When committee report "Preamble not proved," opponents to be entitled to recover costs.

1. When the committee on a private bill shall decide that the preamble is not proved, or shall insert in such bill any provision for the protection of any petitioner, or strike out or alter any provision of such bill for the protection of such petitioner, and further unanimously report, with respect to any or all of the petitioners against the bill, that such petitioner or petitioners has or have been unreasonably or vexatiously subjected to expense in defending his or their rights proposed to be interfered with by the bill, such petitioner or petitioners shall be entitled to recover from the promoters of such bill his or their costs in relation thereto, or such portion thereof as the committee may think fit, such costs to be taxed by the taxing officer of the house as herein-after mentioned, or the committee may award such a sum for costs as they shall think fit, with the consent of the parties affected.

When committee report unanimously "Opposition unfounded," promoters to be entitled to recover costs.

2. When the committee on a private bill shall decide that the preamble is proved, and further unanimously report that the promoters of the bill have been vexatiously subjected to expense in the promotion of the said bill by the opposition of any petitioner or petitioners against the same, then the promoters shall be entitled to recover from the petitioners, or such of them as the committee shall think fit, such portion of their costs of the promotion of the bill as the committee may think fit, such costs to be taxed by the taxing officer of the house as herein-after mentioned, or such a sum for costs as the committee shall name, with the consent of the parties affected ; and in their report to the house the committee shall state what portion of the costs, or what sum for

costs, they shall so think fit to award, together with the names of the parties liable to pay the same and the names of the parties entitled to receive the same: provided always, that no landowner who bona fide at his own sole risk and charge opposes a bill which proposes to take any portion of the said petitioner's property for the purposes of the bill shall be liable to any costs in respect of his opposition to such bill.

28 & 29 VICT.
CAP. 27.

Provide.

3. On application made to the taxing officer of the house by such promoters or petitioners, or by their solicitors or parliamentary agents, not later than six calendar months after the report of such committee, and in cases where no sum shall have been named by the committee, with the consent of the parties affected, not until one month after a bill of such costs shall have been delivered to the party chargeable therewith, which bill shall be sealed with the seal or subscribed with the proper hand of the parties claiming such costs, or of their solicitor or parliamentary agent, the taxing officer shall examine and tax such costs, and shall deliver to the parties affected, or either or any of them, on application, a certificate signed by himself expressing the amount of such costs, or in cases where a sum for costs shall have been named by the committee, with the consent as aforesaid, such sum as shall have been so named, with the name of the party liable to pay the same, and the name of the party entitled to receive the same, and such certificate shall be conclusive evidence as well of the amount of the demand as of the title of the party therein named to recover the same from the party therein stated to be liable to the payment thereof; and the party claiming under the same shall, upon payment thereof, give a receipt at the foot of such certificate, which shall be a sufficient discharge for the same.

Costs to be
taxed.

4. All powers given to the taxing officer by the acts ten and eleven Victoria, chapter sixty-nine, and twelve and thirteen Victoria, chapter seventy-eight, with reference to the examination of parties and witnesses on oath, and with reference to the production of documents, and with reference to the fees payable in respect of any taxation, shall be vested in the taxing officer for the purposes of this act.

Powers of
taxing
officer.
10 & 11 Vict.
c. 69.
12 & 13 Vict.
c. 78.

5. The party entitled to such taxed costs, or such sum named by the committee, with such consent as aforesaid, or his executors or administrators, may demand the whole amount thereof, so certified as above, from any one or more of the persons liable to the payment thereof, and in case of nonpayment thereof on demand may recover the same by action of debt in any of her majesty's courts of record at Westminster or Dublin, or by action in the

Recovery of
costs when
taxed.

28 & 29 VICT. c. 27. ii.

CUSTOMS AND INLAND REVENUE, 1866.

29 & 30 Vict. Cap. 36. An Act to grant, alter, and repeal certain Duties of Customs and Inland Revenue, and for other Purposes relating thereto (as to Railways), [11th June, 1866.]

Concerns described in No. III. of Schedule (A.) of 5 & 6 Vict. c. 36. to be assessed under Schedule (D.) of said act.

Railways to be assessed by commissioners for special purposes.

8. The several and respective concerns described in No. III. of Schedule (A.) of the said act passed in the fifth and sixth years of her majesty's reign, chapter thirty-five, shall be charged and assessed to the duties hereby granted in the manner in the said No. III. mentioned, according to the rules prescribed by schedule (D.) of the said act, so far as such rules are consistent with the said No. III.; provided that the annual value or profits and gains arising from any railway shall be charged and assessed by the commissioners for special purposes.

LABOURING CLASSES LODGING HOUSES AND DWELLINGS (IRELAND), 1866.

29 & 30 Vict. Cap. 44. An Act to encourage the Establishment of Lodging Houses for the Labouring Classes in Ireland (so far as relates to Railways). [28th June, 1866.]

1. In citing this act for any purpose it shall be sufficient to use the expression The Labouring Classes Lodging Houses and Dwellings Act (Ireland), 1866. Short title.

8. For the purposes herein-after mentioned the commissioners of public works in Ireland may, out of the funds from time to time at their disposal, advance on loan to any such council or town commissioners as aforesaid, or to any company, society, or person as herein-after mentioned, namely, any railway company, or dock or harbour company or commissioners, or any other company, society, or association established for trading or manufacturing purposes in the course of whose business or in discharge of whose duties persons of the labouring class may be employed, any private person or persons entitled to any land held in fee simple or fee farm, or for lives renewable for ever or for any term of years whereof not less than eighty years shall be unexpired, and all such advances by way of loan shall be applied towards the purchase of land or buildings and the erection, alteration, and adaptation of buildings to be used as dwellings for the labouring classes, and in providing all conveniences which may be deemed by the commissioners of public works proper in connexion with such dwellings, and in the case of loan to any such council or town commissioners as aforesaid the term "dwellings" in this section shall include lodging houses formed or erected by them under the authority of this act. Commissioners of public works may advance monies to railway companies, and others.

9. Any such advance may be made whether the local or other authority, body corporate, society, or person or persons receiving the same has or has not power to borrow on mortgage or otherwise independently of this act; but nothing in this act contained shall repeal or alter any regulation, statutory or otherwise, whereby any Advances may be made whether local or other authority has power to borrow.

29 & 30 VICT. c. 44. i.

29 & 30 VICT.
CAP. 44.

Commissioners of public works with the approval of the treasury, to make rules and regulations.

Period for repayment of advances.

Security for such advances.

Money advanced on security of land not to exceed moiety of the value.

Council town commissioners, or society may appropriate lands.

company may be disabled from borrowing until a definite portion of capital is subscribed for, taken, or paid up, and no such advance shall be made without the approval of the lords of the treasury.

10. It shall be lawful for the said commissioners of public works, with the approval of the said lords of the treasury, from time to time to make such rules and regulations as they may think fit with respect to applications for loans under this act, and the terms and conditions on which such loans shall be made, and to issue such instructions and forms as they may think proper for the guidance and observance of persons or bodies applying for or receiving such loans, or executing such works, or rendering accounts of monies expended under this act, or regarding the class of dwellings or lodging houses (as the case may be), towards the providing of which such loans may be made, and the adaptation thereof to the purposes intended, and as to the mode of providing for their maintenance, repair, or insurance.

11. The period for the repayment of such advances shall be regulated by the public works commissioners, with the sanction of the commissioners of the treasury, and shall in no case exceed forty years.

12. The repayment of any such money so advanced, with interest thereon at any rate not less than four pounds per cent. per annum, shall be secured as follows, namely, in the case of an advance to any such council or town commissioners by a mortgage solely of said rates so leviable by them respectively as aforesaid, or by such mortgage as herein-after mentioned, or by both, and in any other case by mortgage of the lands, buildings, or premises for the purposes of which such advance shall be made; and in the case of an advance to a company or society any part of whose capital remains uncalled up or unpaid by a mortgage also of all capital so uncalled up or unpaid; and any such mortgage may be taken either alone or together with any other security which may be agreed upon.

13. The money so advanced on the security of any land or building shall not exceed one moiety of the value of the estate or interest in such land or buildings so proposed to be given in mortgage, and all such monies may be advanced by instalments as may be agreed upon.

14. Any such council or town commissioners, and every such other company, commissioners, society, or association, may appropriate for the purposes of this act any lands vested in them respectively, and they may also respectively purchase or take on lease any lands or buildings necessary for the purposes of this act; and

every such commissioners, company, association, or society as aforesaid, for the purpose of taking and holding such lands, shall be deemed to be a body corporate, with right of perpetual succession : provided always, that no such council or town commissioners shall so appropriate, purchase, or take on lease, any such lands or buildings without the sanction of the said lords of the treasury.

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CAP. 44.

15. For the purpose of the acquisition of any such lands or buildings by said council, town commissioners, commissioners, company, society, association, or person as aforesaid, all the statutory enactments for the time being applicable to the acquisition of lands by railway companies in Ireland (save so far as they relate to the taking of lands otherwise than by agreement) shall be deemed to be incorporated with this act ; and for the purposes aforesaid this act shall be deemed the special act, and the said council or town commissioners, society, association, or person as aforesaid the promoters.

Enactments applicable to the acquisition of lands by railway companies to apply.

16. The said council or town commissioners, company, society, association, or person may from time to time, on any lands so appropriated, purchased, or rented, or contracted so to be, respectively erect any buildings suitable for the dwellings or lodging houses, as the case may be, of the labouring classes, and convert any buildings so taken by them into such dwellings or lodging houses, and may from time to time alter, enlarge, repair, and improve the same, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences, and may enter into any contracts for the purposes aforesaid, and may apply to the purposes aforesaid any funds at their disposal respectively.

Buildings to be erected.

17. Any such council or town commissioners, company, society, or association may enter into any contracts for the purpose of supplying any such lodging houses provided or erected by them with gas, water, or other conveniences, and any commissioners or trustees for the supplying of any borough with gas or water may, if they shall think fit, supply gas or water to such lodging houses without charge, or at any reduced charge, or on other favourable terms.

Council or town commissioners, &c. may enter into contracts.

19. Any such council, town commissioners, railway company, or dock or harbour company or commissioners, may from time to time, with the sanction of the lords of the treasury, make sale and dispose of any lands, houses, or buildings vested in such council, commissioners, or company as last aforesaid for the purposes of this act, and may with the like sanction exchange any such lands, houses, or buildings for any others better suited for such

Council town commissioners, or company may make sale of lands vested in them for the purposes of this act.

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purposes, with or without paying or receiving any money for equality of exchange, and the proceeds of all such sales shall be applied for the benefit of such council, commissioners, or company, or for the purposes of this act, in such manner as the said lords of the treasury may approve or direct.

Council or commissioners may make byelaws for the following purposes.

21. That such council or town commissioners, company, society, association, or person may make byelaws for the regulation of such lodging houses, and from time to time vary and alter such byelaws, and may appoint any penalty not exceeding five pounds for the breach by their officers respectively, or by any tenants or occupiers of such lodgings, of every such byelaw, and such byelaws among other things shall make sufficient provision for the following purposes :

1. For securing that such lodging houses shall be under the control of the officers and servants of the council or town commissioners, company, society, association, or person :
2. For securing the due separation at night of men and boys over eight years of age from women and girls :
3. For preventing damage, disturbance, interruption, indecent, or offensive language and behaviour, and nuisances.
4. For determining the duties of the officers, servants, and others appointed by the council or town commissioners, company, society, association, or person : provided always, that no such byelaw shall be of any legal force until the same shall have received the approval of the chief secretary or under secretary for Ireland.

Printed copy of byelaws to be put up.

22. A printed copy of such byelaws shall be put up and at all times kept on every room of any such lodging house.

Recovery and application of fines.

24. All fines imposed by any such byelaw shall be recovered in a summary way before any justice, and one moiety of any such penalty shall be paid to the informer, and the other moiety to the council or town commissioners, company, society, association, or person, to be applied by them in aid of the expenses of such lodging houses.

PIER AND HARBOUR ORDERS CONFIRMATION, 1866.

29 & 30 Vict. Cap. 58. An act for confirming certain Provisional orders made by the Board of Trade under The General Pier and Harbour Act, 1861, relating to Ardglass, Blackpool (South), Cowes (West), Dawlish, Hopeman, Hornsea, Llandudno, Penzance, Plymouth (Hoe), Redcar, and Scarborough (so far as relates to Railways).
[6th August, 1866.]

7. **LLANDUDNO**—Order for the Construction, Maintenance, and Regulation of a Pier at Llandudno, in the County of Carnarvon.

3. The company shall, within two years from the confirmation of this provisional order, and before opening for public traffic the pier and works by this order authorised, purchase from the London and North Western Railway Company, and the London and North Western Railway Company shall sell to the company, the existing pier and works at Llandudno aforesaid as shown on the deposited plans, and constructed under the powers of The St. George's Harbour Act, 1853, and the several acts amending the same, and all the tolls, rates, and duties payable in respect thereof, and all the rights and powers of the said railway company by virtue of the provisions of the said acts or any or either of them in relation thereto, connected therewith, or incidental thereto, at the price or sum of one thousand pounds sterling.

Power to purchase the pier and works of the London and North Western Railway Company.

CARRIAGE AND DEPOSIT OF DANGEROUS GOODS, 1866.

29 & 30 Vict. Cap. 69. An Act for the Amend-
ment of the Law with respect to the Carriage and
Deposit of dangerous Goods.

[6th August, 1866.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Nitro-glyc-
erine to be
deemed
dangerous.

Other goods
may be de-
clared so by
order in
council.

Such goods
to be
marked, and
notice to be
given of
their cha-
racter.

1. The goods or article commonly known as nitro-glycerine or glonoine oil shall be deemed to be specially dangerous within the meaning of this act.

2. Her majesty may from time to time, by order in council, declare that any goods named in such order (other than nitro-glycerine or glouoine oil) are to be deemed specially dangerous within the meaning of this act; and may from time to time amend or repeal any such order; and any goods which are by any such order declared to be specially dangerous shall, so long as such order is in force, be deemed to be specially dangerous within the meaning of this act.

3. No person shall deliver any goods which are specially dangerous to any warehouse owner or carrier, or send or carry or cause to be sent or carried any such goods upon any railway or in any ship to or from any part of the United Kingdom, or in any other public conveyance, or deposit any such goods in or on any warehouse or quay, unless the true name or description of such goods, with the addition of the words specially dangerous, is distinctly written, printed, or marked on the outside of the package, nor in the case of delivery to or deposit with any warehouse owner or carrier, without also giving notice in writing to him of the name or description of such goods, and of their being specially dangerous. And any person who commits a breach of this enactment shall be liable to a penalty not exceeding five hundred pounds, or at the discretion of the court to imprisonment, with or

without hard labour, for any term not exceeding two years.

4. Provided always, as follows :

(1.) Any person convicted of a breach of the last foregoing enactment shall not be liable to imprisonment, or to a penalty of more than two hundred pounds, if he shows to the satisfaction of the court and jury before whom he is convicted that he did not know the nature of the goods to which the indictment relates :

Provision for case of absence of knowledge of nature of goods.

(2.) Any person accused of having committed a breach of the said enactment shall not be liable to be convicted thereof if he shows to the satisfaction of the court and jury before whom he is tried that he did not know the nature of the goods to which the indictment relates, and that he could not, with reasonable diligence, have obtained such knowledge.

5. Where goods are delivered, sent, carried, or deposited in contravention of the said enactment the same shall be forfeited, and shall be disposed of in such manner as the commissioners of her majesty's treasury or (in case of importation) the commissioners of customs direct, whether any person is liable to be convicted of a breach of the said enactment or not.

As to forfeiture of such goods.

6. No warehouse owner or carrier shall be bound to receive or carry any goods which are specially dangerous.

Warehouse owners, &c., not bound to receive such goods.

7. In construing this act the term warehouse owner shall include all persons or bodies of persons owning or managing any warehouse, store, quay, or other premises in which goods are deposited; and the word carrier shall include all persons or bodies of persons carrying goods or passengers for hire by land or water.

Interpretation of "Owner" and "Carrier."

8. The act of the session of the twenty-fifth and twenty-sixth years of her majesty's reign, chapter sixty-six, for the safe keeping of petroleum, is hereby extended and applied to nitro-glycerine, and that act shall be read and have effect as if throughout its provisions nitro-glycerine had been mentioned in addition to petroleum; save that so much of the said act as specifies the maximum quantity of petroleum to be kept as therein mentioned without a licence shall not apply in the case of nitro-glycerine, and any quantity whatever of nitro-glycerine shall be deemed to be subject to the provisions of the said act.

Application of 25 & 26 Vict. c. 66. to nitro-glycerine.

9. The said act of the session of the twenty-fifth and twenty-sixth years of her majesty's reign is also hereby extended and applied to any substance for the time being declared by any order in council under this act to be

Application of the same act to other substances.

20 & 30 VICT. specially dangerous, and that act shall be read and have
CAP. 69. effect as if throughout its provisions the substance to
which such order in council relates had been mentioned
in addition to petroleum ; save that the quantity of such
substance which it shall not be lawful to keep as in the
said act mentioned without a licence shall, instead of the
quantity specified in relation to petroleum in the said act,
be such quantity as is specified in that behalf in relation
to any such substance in any such order in council.

Short title.

10. This act may be cited as The Carriage and Deposit
of dangerous Goods Act, 1866.

RAILWAY COMPANIES (IRELAND) TEMPO- RARY ADVANCES, 1866.

—

29 & 30 Vict. Cap. 95. An Act to enable the Public Works Loan Commissioners to make temporary Advances to Railway Companies in Ireland. [10th August, 1866.]

WHEREAS in the present state of the monetary affairs of the kingdom it is expedient that provision should be made for authorising loans for short periods to railway companies in Ireland :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This act may be cited as The Railway Companies Short title.
(Ireland) Temporary Advances Act, 1866.

2. For the purposes of loans under this act the commissioners of her Majesty's treasury may from time to time, by warrant under the hands of two or more of them, cause to be issued out of the consolidated fund of the United Kingdom, or the growing produce thereof, to the account of the commissioners for the reduction of the national debt, any sum or sums of money not exceeding in the whole five hundred thousand pounds, such money to be applied exclusively under this act, and to be at the disposal of the public works loan commissioners (hereinafter called "the commissioners") in like manner in all respects as money placed at their disposal under the act of the session of the twenty-fourth and twenty-fifth years of her Majesty (chapter eighty), and the acts therein recited, subject nevertheless to the provisions of this act, which provisions shall have full effect notwithstanding anything in the Public Works Loan Act, 1853, or any act therein mentioned, to the contrary contained.

Power to charge not exceeding 500,000*l.* upon the consolidated fund for purposes of this act, and to be at the disposal of the public works loan commissioners.

3. All the several clauses, powers, authorities, provisions, enactments, directions, regulations, restrictions, privileges, priorities, advantages, penalties, and forfeitures contained in and conferred and imposed by the said acts

Powers of public works loan acts extended to this act.

29 & 30 Vict. c. 95. i.

29 & 30 VICT. CAP. 95. or any of them, so far as the same may be made applicable and are not varied by this act, shall be taken to extend to this act, and to everything to be done in pursuance of this act, as if the same were herein repeated and set forth.

Power to make advances of money to railway companies in Ireland.

4. The commissioners may, out of the money for the time being at their disposal under this act, from time to time lend to any railway company in Ireland, and any such railway company may from time to time borrow from the commissioners, such sums as may be agreed upon, subject and according to the following provisions :

- (1.) Every loan shall be made either for the purpose of discharging the principal of money temporarily borrowed and actually applied within three calendar months before the passing of this act in discharging principal money secured by any debentures or other securities of the company duly issued before the passing of this act pursuant to the acts relating to the company, or for the purpose of discharging the principal money secured on any such debentures or other securities due at the time of the passing of this act, or falling due within three calendar months afterwards, or within such further period not exceeding twelve calendar months from the passing of this act as the commissioners of her Majesty's treasury may from time to time direct :
- (2.) The interest made payable on each loan shall be at such rate as the commissioners of her Majesty's treasury shall from time to time direct, but not less than four pounds per cent. per annum, nor less than the rate of interest payable on the principal money in discharge whereof the loan is applied : provided that under special circumstances the commissioners of her Majesty's treasury may by warrant under their hands direct interest to be payable at a rate lower than such last-mentioned rate, but in such case a copy of each warrant shall be laid before parliament :
- (3.) The repayment of every loan, with the interest thereon, at a time not later than twelve calendar months from the date of the advance, shall be secured by a debenture or other security issued under the acts of parliament regulating the company to which the loan is made, and such payment may be further secured in any mode to be agreed on between the company and the com-

missioners, but it shall not be obligatory on the commissioners to require any other security besides the debenture.

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CAP. 95.

- (4.) The commissioners shall not be bound to make any loan under this act unless the security offered is in their opinion sufficient and proper.

5. If any principal money or interest secured by any debenture or other security given under this act shall remain unpaid at the expiration of six months after the same shall have become due, the commissioners may, by order in writing under the hands of any three of them, appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or such principal and interest, as the case may be, together with all costs and expenses incurred by the commissioners, including the expenses of receiving the tolls or sums aforesaid, be fully paid, and upon such appointment being made all such tolls and sums of money as aforesaid shall be paid to and received by the person so to be appointed, and after such interest and costs, or such principal, interest, and costs, have been so received, the power of such receiver shall cease.

Power to
appoint re-
ceiver in
default of
payment for
six months.

6. If any principal money or interest secured by any debenture or other security given under this act shall remain unpaid at the expiration of one year after the same shall have become due, then the whole undertaking of the company by whom such debenture or security was given, and all their lands, works, rolling stock, and other property and effects of every kind, shall, immediately on the expiration of such one year, become vested in the secretary of the public works loan commissioners, freed from all mortgages, charges, or incumbrances whatsoever affecting the same, but by way of mortgage for securing payment of the principal monies and interest due and to become due under all debentures or other securities duly issued and registered by the company before the mortgage under this section takes effect, in the same order and priority, and with the same benefit of special security (if any) duly given, as may be then subsisting, and by virtue of the mortgage effected under this section the commissioners shall, under their several acts, have, as against the company, all the same powers, rights, and privileges as if such mortgage had formed the first charge on the property of the company, and had been originally made under the several acts relating to the commissioners, for securing the amount of a loan advanced under those

In default of
payment for
twelve
months
undertaking
vested in
secretary
of public
works loan
commis-
sioners.

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Application
of moneys
recovered
under last
preceding
section.

acts, and default had been made in payment of the principal and interest due in respect of such loan.

7. The moneys recovered or received by the commissioners in respect of any mortgage which shall take effect under the last preceding section shall be applied as follows:

- (1.) In payment of all costs, charges, and expenses incurred in executing or putting in force any powers or rights conferred by the mortgage, or in realizing the property mortgaged, or in the recovery, application, or distribution of the money received or secured thereunder, or otherwise in reference thereto :
- (2.) In payment of the amounts due under all debentures or other securities duly issued and registered by the company before the mortgage took effect, in the same order and priority, and with the same benefit of special security (if any) duly given, and in the same manner in all respects in which such amounts would be payable out of the assets of the company in case no mortgage had been effected under the last preceding section :
- (3.) The surplus may be paid to the company, or may be paid by the secretary of the commissioners, into the bank of Ireland, to the credit of the accountant general of the court of chancery in Ireland, "the account of the surplus capital of the company (naming the company)," pursuant to the provisions of the act of the eleventh and twelfth years of her Majesty, chapter sixty-eight, intituled an act for extending to Ireland an act passed in the last session of parliament, intituled "an act for better securing trust funds, and for the relief of trustees," and for the purpose of any such payment into court the secretary of the commissioners shall be deemed a trustee of such surplus within the meaning of the said act :
- (4.) Such orders as shall seem fit shall from time to time be made by the court of chancery in Ireland, under the said last-mentioned act, for payment and distribution of such surplus or any part thereof to the company, or to or among any companies or persons entitled to such surplus or any part thereof.

Securities
under this
act declared
valid.

8. Every debenture or other security given by any company for a loan under this act shall be deemed to be a debenture or security issued in accordance with the acts

regulating the company, and shall not be rendered invalid by any want of compliance with the provisions of such acts, or by any other omission or informality whatever. 29 & 30 VICT.
CAP. 95.

9. No debenture or other security executed for securing payment of any loan under this act shall be liable to any stamp duty whatever. Exemption
from stamp
duty.

CONSTABULARY FORCE (IRELAND), 1866.

29 & 30 Vict. Cap. 103. An Act to amend an Act to consolidate the Laws relating to the Constabulary Force in Ireland (so far as relates to Railways). [10th August, 1866.]

Rate of charge upon where members of the constabulary force shall be required to keep the peace in the neighbourhood of railway works or other public works in Ireland, the costs and expenses of such members, calculated in the manner herein-before mentioned, shall be charged upon the company or other parties carrying on such railway or other public works.

18. From and after the passing of this act, in all cases where members of the constabulary force shall be required to keep the peace in the neighbourhood of railway works or other public works in Ireland, the costs and expenses of such members, calculated in the manner herein-before mentioned, shall be charged upon the company or other parties carrying on such railway or other public works.

RAILWAY COMPANIES SECURITIES, 1866.

29 & 30 Vict. Cap. 108. An Act to amend the Law relating to Securities issued by Railway Companies. [10th August, 1866.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :

1. This act may be cited as the Railway Companies Securities Act, 1866. Short title.

2. In this act—

The term "railway" includes a tramway authorized by act of Parliament incorporating The Companies Clauses Consolidation Act, 1845, but not any other tramway :

Interpreta-
tion of
terms.

The term "railway company" includes every company authorized by act of parliament to raise any loan capital for the construction or working of a railway, or for any purposes connected with the conveyance by such company of traffic on a railway, either alone or in conjunction with other purposes :

The term "debenture stock" includes mortgage preference stock and funded debt, and any stock or shares representing loan capital of a railway company, by whatever name called :

The term "act of parliament" includes a certificate of the board of trade made under The Railways Construction Facilities Act, 1864, or The Railway Companies Powers Act, 1864, or any other act of parliament. 27 & 28 Vict.
cc. 121, 121.

3. Every railway company shall, on or before the fifteenth day of January one thousand eight hundred and sixty-seven, register, and shall always thereafter keep registered, at the office of the registrar of joint stock companies in England, the name of their secretary, accountant, treasurer, or chief cashier for the time being authorized by them to sign instruments under this act, or, if they think fit, the names of two or more such officers of the company so authorized (and the officer so registered for the time being, and any one of the officers so registered if more than one, is in this act referred to as the company's registered officer). Company to
have regis-
tered officer.

4. Half years shall, for the purposes of this act, be deemed to end on the thirtieth day of June and the Half years
for purposes
of act.

29 & 30 VICT. c. 108. i.

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CAP. 108.

thirty-first day of December; and the first half year which this act applies shall be that ending on the thirty-first day of December one thousand eight hundred and sixty-six; but the board of trade, on the application of any railway company, may (by writing under the hand of one of their secretaries or assistant secretaries which shall be registered by the railway company at the office of the said registrar) appoint, with respect to that company, other days for the ending of half years (including the first).

Loan capital
accounts to
be made
half-yearly.

5. Within fourteen days after the end of each half year, every railway company shall make an account of their loan capital authorized to be raised and actually raised up to the end of that half year, specifying the particulars described in the first schedule to this act, part I. (which account for each half year is in this act referred to as the loan capital half-yearly account).

Form of
half-yearly
account.

6. The board of trade may from time to time, by notice published in the London, Edinburgh, and Dublin Gazettes, prescribe the form in which the loan capital half-yearly account is to be made.

Account to
be open
to share-
holders, &c.

7. The loan capital half-yearly account of each company may be perused at all reasonable times, without payment, by any shareholder, stockholder, mortgagee, bond creditor, or holder of debenture stock of the company, or any person interested in any mortgage, bond, or debenture stock of the company.

Deposit of
copy of ac-
count with
registrar of
joint stock
companies.

8. Within twenty-one days after the end of each half year every railway company shall deposit with the registrar of joint stock companies in England a copy, certified and signed by the company's registered officer as a true copy, of their loan capital half-yearly account.

Deposit in
Scotland and
Ireland.

9. A railway company may also, if they think fit, deposit with the registrar of joint stock companies in Scotland, or with the assistant registrar of joint stock companies in Ireland, or with each, a like copy of any loan capital half-yearly account of the company.

Prohibition
against
borrowing
before registra-
tion of
Act giving
the borrow-
ing power.

10. It shall not be lawful for any railway company at any time to borrow any money on mortgage or bond, or to issue any debenture stock, under any act of the present session or passed after the end of the half year to which their then last registered loan capital half-yearly account relates, unless and until they have first deposited with the registrar of joint stock companies in England a statement, certified and signed by the company's registered officer as a true statement, specifying the particulars described in the first schedule to this act, part II.

The board of trade may from time to time, by notice published in the London, Edinburgh, and Dublin Gazettes, prescribe the form in which such statement is to be made.

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CAP. 108.

A railway company may also, if they think fit, deposit with the registrar of joint stock companies in Scotland, or with the assistant registrar of joint stock companies in Ireland, or with each, a like copy of any such statement.

11. If at any time any railway company fail to register or keep registered as aforesaid the name of their secretary, accountant, treasurer, or chief cashier, or to deposit with the registrar of joint stock companies in England, within the time required by this act, such a copy as aforesaid of any loan capital half-yearly account, or borrow any money on mortgage or bond, or issue any debenture stock without having first deposited with the registrar of joint stock companies in England such a statement as they are by this act required to deposit, in any case where they are so required, then, and in every such case they shall be deemed guilty of an offence against this act, and shall for every such offence be liable, on summary conviction, to a penalty not exceeding twenty pounds, and in case of a continuing offence to a further penalty not exceeding five pounds for every day during which the same continues after the day on which the first penalty is incurred.

Penalty on
company
failing to
register, &c.

12. Every person may inspect the documents kept by any registrar or assistant registrar under this act on paying a fee of one shilling for each inspection as regards each railway company; and any person may require a copy or extract of any of those documents to be certified by the registrar or assistant registrar on paying for such certified copy or extract a fee of sixpence, and a further fee of sixpence for every two hundred words or fractional part of two hundred words after the first two hundred words.

Power to
inspect do-
cuments on
payment of
a fee.

13. Every railway company on registering the name or names of any officer or officers, or depositing any account or statement, under this act, shall pay the like fee as is for the time being payable under The Companies Act, 1862, on registration of any document other than a memorandum of association.

Fees on re-
gistration
of name of
officer, &c.

14. There shall be put (by endorsement or otherwise) on every mortgage deed or bond made or given after the twenty-first day of January one thousand eight hundred and sixty-seven by a railway company for securing money borrowed by the company, and on every certificate given after that day by a railway company for any

Declaration
by directors,
&c., on mort-
gage deed,
&c.

29 & 30 Vict.
CAP. 108

sum of debenture stock issued by the company, a declaration in the form given in the second schedule to this act, or to the like effect, with such variations as circumstances require.

Every such declaration shall be signed by two directors of the company specially authorized and appointed by the board of directors to sign such declarations, and by the company's registered officer.

Penalty on
company,
&c., if decla-
ration
omitted.

15. If after the expiration of the time specified in the last preceding section any railway company deliver any such mortgage deed, bond, or certificate without such a declaration being first put thereon and signed as aforesaid, they shall be deemed guilty of an offence against this act, and shall for every such offence be liable, on summary conviction, to a penalty not exceeding twenty pounds; and if any director or officer of any railway company knowingly authorizes or permits the delivery of any such mortgage deed, bond, or certificate without such a declaration being first put thereon and signed as aforesaid, every such person shall be deemed guilty of an offence against this act.

Penalty on
registered
officer.

16. If any director or registered officer of a company signs any declaration, account, or statement under this act knowing the same to be false in any particular he shall be deemed guilty of an offence against this act.

Punishment
for offences
against act.

17. If any director or officer of a railway company is guilty of an offence against this act, he shall be liable, on conviction thereof on indictment, to fine or imprisonment, or on summary conviction thereof to a penalty not exceeding ten pounds.

Nothing to
affect lia-
bility of
company,
&c.

18. Nothing in this act, or in any account, statement, or declaration under it, shall affect in any action or suit any question respecting any loan, debt, liability, mortgage, bond, or debenture stock as between a railway company or any director or officer of a railway company on the one side, and any person or class of persons on the other side.

Account, &c.,
not to be
evidence for
company.

19. An account, statement, or declaration under this act shall not be admissible as evidence in favour of a railway company of the truth of any matter therein stated.

SCHEDULES.

THE FIRST SCHEDULE.

PART I.—Particulars to be specified in Loan Capital Half-yearly Account.

A. Every half-yearly account to show—

- (1.) The act or acts of parliament under the powers of which the company have contracted any mortgage or bond debt existing at the end of the half year, or have issued any debenture stock then existing, or the act or acts of parliament by or under which any mortgage or bond debt or debenture stock of the company then existing has been confirmed, and the act or acts of parliament under which the company have any subsisting power to contract any mortgage or bond debt, or to issue any debenture stock (either on fulfilment of any condition or otherwise):
- (2.) The amount or respective amounts of mortgage or bond debt or debenture stock thereby authorized or confirmed:
- (3.) Whether or not by any such act or acts the obtaining of the certificate of a justice or sheriff for any purpose, or the obtaining of the assent of a meeting of the company, has been made a condition precedent to the exercise of the power thereby conferred of borrowing on mortgage or bond, or of creating and issuing debenture stock:
- (4.) The date at which such condition has been fulfilled:
- (5.) The amount or the aggregate amount, under the powers of such act or acts, actually borrowed up to the end of the half year on mortgage or bond (distinguishing them), and then being an existing debt, and of debenture stock actually issued up to that time and then existing:
- (6.) The amount or the aggregate amount remaining to be borrowed.

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B. The second and every subsequent half-yearly account to show also—

- (7.) The items described in paragraphs (2.) and (5.) of this part of the present schedule for two consecutive half years, and the increase or decrease of any of those items in the second of those half years as compared with the first.

PART II.—Particulars to be specified in Statements to new Borrowing Power.

- (1.) The act of parliament conferring the power to borrow on mortgage or bond or to issue debenture stock (either on fulfilment of any condition or otherwise) :
- (2.) The amount of mortgage or bond debt or debenture stock thereby authorized :
- (3.) Whether or not by such act the obtaining of the certificate of a justice or sheriff for any purpose, or the obtaining of the assent of a meeting of the company, has been made a condition precedent to the exercise of the power thereby conferred of borrowing on mortgage or bond, or of creating and issuing debenture stock :
- (4.) The date at which such condition has been fulfilled.

THE SECOND SCHEDULE.

Declaration on Mortgage Deed, Bond, or Certificate of Debenture Stock.

The Railway Company.

We, the undersigned, being two of the directors of the company specially authorized and appointed for this purpose, and I, the undersigned registered officer of the company, do hereby declare (each for himself) that the within-written [*or as the case may be*] mortgage deed

[or bond or certificate] is issued under the borrowing ^{29 & 30 VICT.} powers of the company as registered * on the ^{CAP. 108.} day of _____, and is † not in excess of the amount there stated as remaining to be borrowed.

Dated this _____ day of _____ 18 .

_____ } Directors.

_____ } [Secretary or Accountant,
or as the case may be]
and registered officer.

Note.—Where the case so requires with reference to a statement under the first schedule, part II., leave out from the * to the end of the form and insert :—

on the _____ day of _____ and the _____ day of _____, and is not in excess of the amounts there stated as remaining and authorized to be borrowed.

Where the mortgage deed, bond, or certificate is issued under a power of re-borrowing, or of issuing debenture stock in discharge of mortgage or bond debt, leave out from the † to the end of the form, and insert :—in substitution for a mortgage deed [or bond] which has since been paid off.

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